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A HANDBOOK OF THE PENNSYLVANIA WORKMEN'S COMPENSATION ACT OF 1915

CONTAINING A
DIGEST
FULL TEXT OF ASSOCIATED ACTS
RULINGS OF THE BOARD
AND
A COMPREHENSIVE INDEX

COMPILED AND PREPARED BY

HARRY Z. MAXWELL

OF THE PHILADELPHIA BAR

RECOMMENDED FOR USE BY
THE WORKMEN'S COMPENSATION BOARD
OF PENNSYLVANIA

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Pennsylvania. Laws, statutes, etc. Workmen's
compensation law

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PREFACE

Originally prepared for private convenience, it was suggested that this Digest and Index of the Workmen's Compensation Act of 1915 might be of some help to many of those who have more or less to do in the administration and observance of the Act. Upon submitting the matter to the Workmen's Compensation Board, they very kindly offered to recommend the use thereof, as in some measure simplifying and rendering more easy a compliance with the law.

The Digest of Act No. 338 is by sections. The index, except where otherwise expressly stipulated, is to such sections, and refers, as well, to the sections of the full text of the Act, which, together with the associated acts, immediately follows the Digest.

In the Appendix will be found a reprint of Bulletin No. 2, published by the Workmen's Compensation Bureau, containing Rules and Rulings of the Board to date, as well as a list of forms and Compensation Districts. There has been added the personnel of the two Boards and Rules for ascertaining weekly wages.

The undersigned desires to express his appreciation of the help and suggestions given by Professor Bohlen, Counsel for the Board, the individual members of the Board, Mr. Lee Solomon, Secretary, and many others.

It is our present purpose to issue annually a digest and review of the decisions rendered by the Board and Courts, interpreting the Act.

This brief compilation is herewith respectfully submitted in the hope that it may prove of some assistance in the study and use of the Pennsylvania Workmen's Compensation Act of 1915.

H. Z. MAXWELL.

PHILADELPHIA, PA., March 6, 1916.

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WORKMEN'S COMPENSATION ACT OF 1915

DIGEST—WITH INDEX

ACT No. 338.

Defining the liability of an employer to pay damages for injuries received by an employe in the course of employment; establishing an elective schedule of compensation; and providing procedure for the determination of liability and compensation thereunder.

Article I. Interpretation and definition.

Article II. Defining the liability of an employer in an action at law for damages for personal injury to an employe, and abolishing in whole or in part certain defenses thereto.

Article III. Establishing a system of compensation by agreement; prescribing the method by which such agreement shall be made and terminated; defining the injuries for which compensation is payable, its amount, and the condition under which and the manner in which it is payable.

Article IV. Providing a procedure for the determination and settlement of claims for compensation.

Article V. General Provisions.

ARTICLE I. INTERPRETATION AND DEFINITION.

SECTION:

1. Name of Act—Scope.

To be known as the Workmen's Compensation Act of 1915.

To apply to all accidents occurring within the state, only, irrespective of place of contract.

102. Terms: "Singular"—"Masculine."

'Singular' to include 'plural.'

'Masculine' to include 'feminine' and 'neuter.'

103. Terms: "Employer"—"Master."

'Employer' is synonymous with 'master,' and includes natural persons, partnerships, joint-stock companies, corporations of all classes, public and private, and local and state governmental agencies. (See Appendix-Rulings of Board, No. 7.)

SECTION :

**104. Terms: "Employe"—"Servant"—"Casual Employe"
—"Outworker?"**

'Employe' is synonymous with 'servant,' and includes all natural persons serving another for a valuable consideration, except 'outworkers'; and persons whose employment is 'casual' in character and not in the regular course of the business of the employer. (See Appendix-Rulings of Board, Nos. 5 and 13.)

By Act of 1915, No. 343, persons who, at the time of injury, are engaged in domestic service or agriculture, are expressly excluded from operation of Act No. 388.

105. Terms: "Contractor." (See Sections 203, 302b.)

'Contractor' does not include independent contractors serving persons other than the employer, except those supplying laborers or assistants.

But does include an employe or contractor to whom employer has entrusted all or a part of his regular business; and a subcontractor to whom a principal contractor has sublet any part of the work which such principal contractor has undertaken.

106. Public Authorities.

Powers and duties of public authorities are treated as the trade and business of that authority. (See Section 302a, end.)

107. Terms: "Bureau"; "Board."

'Bureau' means Workmen's Compensation Bureau of the Department of Labor and Industry.

'Board' means Workmen's Compensation Board of the Bureau.

(NOTE: See Article IV, for functions of Bureau and Board.)

ARTICLE II.

DAMAGES BY ACTION OF LAW.

201. Defenses Abolished.

In an action for damages for injury or death in the course of employment;

- (a) Negligence of a fellow-servant,
- (b) Assumption of risk,
- (c) Contributory negligence,

are not to be defenses.

But intoxication and reckless indifference to danger are to be defenses, though the burden of proof is on defendant, and question is for jury.

SECTION :

202. Respondent Superior—Licensed Employee—Selection of.

Employers to be liable for acts of all persons in their employ, while within scope of employment, especially as to those persons licensed by state or governmental authority; Provided: employer has free selection of such employees.

203. Contractors. (See Sections 105 and 302b.)

An employer is liable to any person who is engaged on his premises, in the course of his regular business, although not employed by such employer, but exclusively by an employe or contractor, to the same extent as to his own employe.

204. Agreements—Receipt of Benefits—Effect of.

No agreement, etc., before accident, except under Article III (i. e., for compensation), shall be valid or bar a claim for damages; and no receipt of benefits from any association, etc., shall bar an action at law under Article II, or a claim under Article III.

ARTICLE III.

ELECTIVE COMPENSATION.

301. Scope of Article III, as to Persons—Injuries—Place of Injury.

Upon acceptance by both parties of Article III, and irrespective of negligence, compensation is to be paid by employer* to injured employe, or dependents of deceased employe, because of accident occurring in the course of employment.

Except: Where injury or death is intentionally self-inflicted and even then, the burden of proof is on the employer.

INJURY: 'Injury' and 'Personal injury' mean violence to physical structure of body, and disease or infection naturally resulting therefrom.

DEATH: 'Death' includes only death resulting from violence and its resultant effects, within 300 weeks after accident.

INJURY BY ACT OF THIRD PERSON—PERSONAL CAUSE: 'Injury by accident in course of employment' does not include acts of a third party directed at injured party for personal reasons.

PLACE: But does include all injuries in furtherance of the business, on or off premises of employer, within the state (See Sec. 1), and all injuries on employer's premises, where, although not in the course of employment, employe's presence is required by the nature of the employment.

* See Appendix-Rulings of Board, No. 12.

SECTION:

302a. Acceptance Presumed—Method of Rejection.

In every contract of hiring made after, and every existing contract renewed, extended or continuing beyond, December 31, 1915, both parties are presumed to have accepted Article III, unless either party in writing expressly rejects same. (Forms W1, W3.)

REJECTION: Copy of notice of rejection, accompanied by proof of service on other party, setting forth under oath, etc., time, place and manner of such service, must be filed with Bureau, within 10 days, and before accident occurs. (Forms W7, W7a, W9.)

(See Appendix-Rulings of Board No. 1.)

MINORS: In the case of minors, notice is to be given to or by parent or guardian, (and person with whom contract of employment was made).

GOVERNMENTAL AUTHORITIES: No public authority may give such notice; *i. e.*, state and municipal, etc., authorities may not reject Article III, but state and municipal employes, may, however, do so. (See Section 106.)

302b. Contractors. (See Sections 105 and 203.)

Employers are conclusively presumed to have accepted Article III in favor of laborers or assistants, hired by an employe or contractor, who come on the premises for the performance of the employer's regular business; unless the employer posts in a prominent place a notice to the contrary, and within 10 days of such posting and before accident occurs, files copy of same with Bureau along with proof of posting, and time, place and manner thereof. (Forms W2, W7, W7a, W8.)

Such *laborer or assistant* is presumed to have accepted Article III, unless he gives notice in writing to such employer, at or before entrance on premises, and, within ten days of same and before accident occurs, files copy of same with Bureau, along with proof of service, and time, place and manner thereof. (Forms W3, W9.)

INTERMEDIATE EMPLOYER: Where Article III binds ultimate employer, it is not to be in effect between intermediate employer and his employe, unless expressly so agreed.

303. Effect of Acceptance—Surrender of Remedies.

Failure to reject under Sections 302a, or 302b, constitutes an acceptance of Article III and a surrender by the parties thereto, of all other rights to damages, for injury or death in the course of employment, or to any other method of determination thereof. (See, however, Sections 305 and 319.)

PARTIES BOUND: Such agreement binds employer and personal representatives; employe, wife or husband, widow or widower, next of kin and other dependents.

SECTION:

304. Termination of Agreement.

Any agreement for operation or non-operation of Article III may be terminated prior to any accident by either party, upon 60 days' notice, with copy of, and proof of service of, same, to Bureau, within 10 days of service. (Forms W4, W5, W6, W7, W9.)

305. Securing Compensation.

Every employer liable to pay compensation must insure: (Form W13.)

- (1) In state fund, or (Special Form)
- (2) In any authorized insurance company, or
- (3) In any authorized mutual association, or
- (4) Be exempted from such insurance, if financial status is sufficient to warrant same. (Includes self-insurance.) (Form W10.)

EXEMPTION: Upon application on proper blank (From W10,) Bureau may exempt by written order, (Forms W11, W12,); Bureau may at any time revoke such order, and require one of the three forms of insurance prescribed above.

(See Appendix-Rulings of Board, Nos. 3, 4, and 9.)

PENALTY FOR FAILURE TO INSURE: Upon failure of employer to comply with above, Bureau to serve notice so to do; upon failure, within 30 days, to comply with notice or to terminate his acceptance of Article III as provided in Section 304, employee or representative has option of accepting compensation under Article III, or suing under Article II.

Provided: Such option be exercised, and written notice thereof served within 30 days after accident.

Provided further: Employer to be liable for compensation only, during such 30 days from date of notice from Bureau, or, if he has terminated agreement, during time necessary for such termination to become effective.

SCHEDULE OF COMPENSATION.

306. Injury. (See Appendix—"Rules and Instructions").

* **GENERAL:** Minimum compensation per week: \$5. (Except under subsection (b), in which there is no minimum.)
Maximum compensation per week: \$10.

If total wages are less than \$5, then the full amount of such wages.

No compensation for first 14 days, except as in (e), infra; first 14 days to be excluded in computing compensation.

* Note: Applies only to injury and not to death.

SECTION :

- (a) **TOTAL DISABILITY:** 50% of wages for 500 weeks, not to exceed \$4000.00. Partial followed by total: deduct weeks paid under partial.
- (b) **PARTIAL DISABILITY:** 50% of difference between wages and earning power thereafter; not, however, beyond 300 weeks.
Total followed by partial: deduct weeks paid under total.

- (c) **PERMANENT DISABILITY:** 50% of wages:

| | | |
|-------------------------|-----|--------|
| For loss of hand..... | 175 | Weeks. |
| " " arm..... | 215 | " |
| " " foot..... | 150 | " |
| " " leg | 215 | " |
| " " eye | 125 | " |

Permanent loss of use of such members to constitute loss of such members.

Two or more of such to be cumulative, except

Loss of both arms, both hands, etc., to constitute total disability, though Board may rule otherwise.

AMPUTATIONS:

Between elbow and wrist, equals loss of hand.

Between knee and ankle, equals loss of foot.

At or above elbow, equals loss of arm.

At or above knee, equals loss of leg.

- (d) **WAITING PERIOD:** No compensation for first 14 days, except as in (e), infra.
(This does not apply in case of death.)

- (e) **MEDICAL EXPENSES:** During first 14 days, up to \$25.00; if major surgical operation: up to \$75.00.

Upon application by employee, employer must furnish same. If refused, employee may secure same elsewhere, and be reimbursed, within above limits, by the employer.

Refusal, by employee, of medical service, constitutes forfeiture, *pro tanto*; of compensation payable for disability resulting from such refusal.

- (f) **DEATH DURING PAYMENT OF COMPENSATION:** If, during payment of compensation, the employee dies as a result of the injury, the period during which payments were made is to be deducted from the period during which payments are due for death under Section 307; but no deduction for amount paid in medical expenses.

If employee dies from any cause other than the injury, compensation is to cease.

SECTION:

**307. Death—Dependents—Funeral Expenses. (See Appendix
—“Rules and Instructions”).**

GENERAL: Minimum wage basis per week, \$10.

Maximum wage basis per week, \$20.

(Note: Applies only to death and not to injury).

No waiting period; compensation to be computed from time of death.

Time limit: See end of section.

COMPENSATION to be computed on percentage of average weekly wage, as follows:

(1) If no widow or widower, but

| | |
|---------------------------|-----|
| One or two children..... | 25% |
| Three children | 35% |
| Four children | 45% |
| Five children | 55% |
| Six or more children..... | 60% |

To be paid to their guardian,

To widow or widower, and

| | |
|--------------------------------|-----|
| (2) No children | 40% |
| (3) One child | 45% |
| (4) Two children | 50% |
| (5) Three children | 55% |
| (6) Four or more children..... | 60% |

(7) If there be neither { widow, nor } then to the dependent father or mother or both.....20%

(8) If there be neither { widow, widower, children, nor } then to the dependent parents dependent brothers and sisters under 16 years of age, as follows: To

| | |
|--|-----|
| One brother or sister | 15% |
| Two brothers or sisters..... | 20% |
| Three or more brothers or sisters..... | 25% |

To be paid to their guardian.

(9) **FUNERAL EXPENSES:** In death cases, reasonable expenses of last sickness and burial up to \$100 (no deductions); to be paid

- (1) To dependents; or, if none such,
- (2) To personal representatives.

SECTION:

DEPENDENTS: Child, brother or sister to be under 16 years of age.

Widow must have been living with husband, or dependent upon him for support.

Widower must be incapable of self-support, and dependent on deceased wife.

TERM: "CHILD" includes:

- (1) Step-children;
- (2) Adopted children;
- (3) Children of household to whom decedent stood in loco parentis;
- (4) Posthumous children.

(Does not include illegitimate children, unless they qualify under "(3)".)

CHANGE OF STATUS: Dependent's rights cease:

- (1) If they die;
- (2) If they remarry;
- (3) If widower becomes capable of self-support;
- (4) Arrival of child, brother or sister, at age of 16.

Parties remaining, to receive same rate of compensation as if they had originally been the only parties entitled thereto.

WAGE LIMIT—MAXIMUM & MINIMUM: Basis of wages for compensation for death not to be over \$20, nor under \$10 per week.

TIME LIMIT: Compensation for death to be paid for 300 weeks, except that in the case of minors, compensation is to be continued at 15% for one, and 10% for each additional child up to 50%, until such child reaches the age of 16.

308. Compensation in Installments.

Compensation to be paid in same installments as were wages.

309. Wages—How Determined? (See Appendix: "Rules for Ascertaining Weekly Wages").

- (1) Term 'wages' is money rate paid under contract of hiring.
- (2) Does not include:
 - (a) Gratuities,
 - (b) Board, etc., unless money value fixed at time of hiring;
 - (c) Amount deducted by employer for labor, tools, etc., necessary under contract.

SECTION :

SEASONAL EMPLOYMENT: Wages to be 1/50 of total from all occupations for preceding year, unless palpably unfair.

CONTINUOUS EMPLOYMENTS—DAY—HOUR—PIECE: If wages are fixed by day, hour, or piece, weekly wages are to be $5\frac{1}{2}$ times rate of ordinary working day, exclusive of overtime, based on so much of preceding six months, as employe worked for same employer. (For rules governing this section, see Appendix, "Rules for ascertaining weekly wages.")

CONCURRENT CONTRACTS: Where the employe is working under concurrent contracts with two or more employers, his wages from all employers shall be considered as if earned from the employer liable for the compensation.

310. Non-Resident Aliens.

Two-thirds of compensation to alien non-resident dependent widows and children, only. (See Appendix-Rulings of Board, No. 8). To be commuted under Sections 316, 424.

No compensation to alien non-resident widowers, parents, brothers or sisters.

CONSULAR REPRESENTATIVES: Such non-residents may be represented by Consular officers; receipt of such officers to be a valid release.

311. Notice of Injury—When.

In absence of knowledge of employer, the employe or other in his behalf, must give to his employer within 14 days, notice of his injury, or compensation suspended until such notice given or knowledge obtained; unless failure to give notice be due to fraud, etc., or any reasonable cause or excuse, in which case, even, the employer is to be relieved to the extent of the prejudice by such delay.

312. Notice of Injury—Form of.

To (name of employer.)

You are hereby notified that an injury of the following character () was suffered by (name of injured employe) who was in your employment at (place) while engaged as (kind of employment) on or about the () day of (), Anno Domini (), and that compensation will be claimed therefor.

Date Signed ().

Or in a form substantially similar thereunto.

313. Notice of Injury or of Rejection, etc., of Act—Service of.

Notice of injury to employe, or of rejection, etc., of act under Section 302a & b, are to be served on employer:

(1) Personally; or

SECTION:

- (2) Upon manager or superintendent in immediate charge; or
- (3) By registered mail to last known place of residence or business of employer; or
- (4) Upon President, Vice-President, Treasurer, or Secretary of corporation, domestic or foreign.

Knowledge of any of these to be knowledge of employer.
(See Appendix-Rulings of Board, No. 1).

314. Medical Examination.

Upon request of employer, employe must submit to medical examination at proper time and place; expenses of same to be born by employer.

Upon refusal of employe, Board, upon petition (Form W47) of employer, are to order him to submit (Form W48); upon continued refusal without just cause or excuse, employe to be deprived of right to compensation.

RE-EXAMINATION: Subsequent examination may be secured on petition (Form W49) of employer to Board, who shall order (Form W50) same at convenient times and places.

Expenses of same as well as traveling expenses and loss of wages to be borne by employer.

Refusal of employe to submit to such re-examination, suspends compensation during such refusal.

PHYSICIAN OF EMPLOYEE: Employe may have his own physician, at his own expense, present at such examinations.

315. Limitations of Actions.

- (1) Agreement for compensation, or
- (2) Petition to Board must be made within one year after death or injury, or date of last payment, if any, of compensation.

316. Commutation of Payments. (See Section 424.)

Commutation by Board of the total compensation, at its then value, when discounted at 5% interest, with annual rests, may be had upon application by either party, and on due notice to the other; IF:

- (1) It is for the best interests of employe or dependents;
- (2) Undue hardship or expense to either party may be avoided;
- (3) Employe or dependent has removed, or is about to remove from the United States.
- (4) Employer has disposed of whole or part of business or assets.
- (5) (Under Section 310; non-resident alien dependents.)

SECTION:

317. Deposit with Trust Company, etc.—When.

Where future payments are certain, total compensation due may, with approval of Bureau, be paid to any authorized trust company, etc., which sum, together with all interest thereon, is to be held in trust for employe or dependents. Such payment is to constitute a discharge of the employer's liability, as well as satisfaction of the prothonotary's docket.

MANNER OF PAYMENT: Payment by trustees to be in installments, as in case of compensation payments.

In appointment of trustees, choice of employe or dependent is to be preferred.

Any unexpended balance to be repaid to employer.

318. Preference of Claims for Compensation.

Right of compensation (without limit of amount) to have same preference as claim for unpaid wages.

Provided: Not to be prior to judgment entered, or mortgage or conveyance recorded, prior to filing of petition, award or agreement in office of proper county prothonotary.

Not ASSIGNABLE: Claims for compensation not to be assignable.

EXEMPTION: To be exempt from levy, execution or attachment, and all claims of creditors (except as provided in Section 501), which exemption may not be waived.

319. Negligence of Third Parties—Subrogation of Employer.

Where accident is due to negligence of third party, the employer is subrogated to the rights of the employe or his dependents, but only to the extent of compensation.

Where payments of compensation have been made, a recovery in excess of such payments, shall be paid to employe or dependents on account of future installments of compensation.

ARTICLE IV.

PROCEDURE.

(See Appendix—"Rules and Instructions"; "Rules of Procedure," etc.)

401. Terms: "Referee"—"Fund"—"Employer."

'Referee' shall mean Workmen's Compensation Referee.

'Fund' shall mean State Insurance Fund of Pennsylvania.

'Employer' includes authorized agent, or his insurer or State Fund, as the one or the other has assumed his liability.

402. Proceedings by Petition.

All proceedings and appeals to be instituted by petition in writing to Board, in form prescribed by same.

SECTION :

403. Mailing of Petitions.

All papers requiring action by Board to be mailed to Bureau.

404. Filing and Docketing of Petitions.

All decisions of Board or referees, and all petitions, etc., to be filed by Bureau, immediately upon receipt thereof.

405. Transmission of Records by Bureau.

Bureau to transmit to Board or referee, copies of all papers requiring action by them.

406. Daily Report to Bureau by Board, etc.

Board and referees to make daily report to Bureau of all decisions for that day.

407. Service by Bureau of Copies of Decisions.

Bureau, on receipt of any decision from Board or referee, is to serve certified copy of same upon all parties in interest.

408. Manner and Date of Service—Record of Date.

Service to be by mail; date of mailing to be date of service. Non-receipt of, for good cause, may be shown.

Bureau, Board and referees to keep record of date of service of respective papers.

409. Referee's Decision—Appeals. (See Sections 419, 420 and 421.)

Referee's findings of fact reviewable by Board, within their discretion, Board's findings of fact to be absolutely final.

Questions of law may be appealed to Board (who must hear such appeals) and thence to courts. Such appeals to have precedence over all civil cases.

410. Agreement for Compensation—Execution of.

On or after the fourteenth day after accident, but not before, employer and employe may agree on compensation, according to terms of act.

Such agreement to be null and void if:

- (1) It is made prior to fourteenth day after accident;
- (2) It permits commutation of payments contrary to provisions of act (See Section 316).
- (3) It varies amount to be paid or period during which compensation is payable as provided in act.

To be in writing signed by all parties in interest. (Forms W14, W15). (See Appendix-Rules and Instructions).

SECTION:

411. Copy of Agreement to Board.

A certified copy of same to be signed by all parties and mailed or delivered to Board, who are to examine same, and within thirty days of service thereof, to notify parties as to its validity or invalidity, under Section 410. (Forms W16, W17).

Payments made prior to notice of invalidity are to discharge employer *pro tanto*.

412. Failure to Agree.

On failure to agree, employe or dependent may petition Board (Forms W18, W19).

413. Claim Petition to Board. (See Appendix—Petitions and Answers.)

Bureau to assign such claim petition to a referee (Form W20), and shall serve adverse party with copy of same (Form W21), requiring answer to be filed with referee, within seven days, or allegations of petition deemed admitted.

414. Answer. (See Appendix—Petitions and Answers.)

Answer may be filed within seven days (Form W22).

415. Hearings. (See Appendix—Proceedings before Referees.)

Hearing to be 12 to 21 days after filing of petition; *i. e.*, 5 to 14 days after expiration of seven-day period. Copy of answer to be mailed or delivered to petitioner. Referee to notify all parties of time and place of hearing (Form W23).

ALLEGATIONS ADMITTED: Facts alleged in petition, and not denied in answer, conclusively presumed to be true.

416. Duty of Referee. (See Appendix—Hearings.)

Referee to hear all evidence.

417. Investigation by Referee.

Referee may conduct independent investigation, and with consent of Board, may hold impartial medical examination; expense of latter to be paid by either or both parties, within discretion of Board.

Report of such examination may be examined by either party.

418. Award by Referee. (See Appendix—Referee's Award.)

Award by referee within seven days of hearing. (Form W24).

SECTION:

419. Appeal. (See Section 409.)

Appeal to Board within ten days of notice of award:

- (1) On question of fact: (Form W26).
- (2) On question of law: (Form W25).
- (3) For fraud, coercion, etc. (Form W27).

420. Appeals—Discretion of Board—Question of Law. (See Section 409.)

“1” and “3” above are permissive appeals, within discretion of Board.

“2” must be heard by Board.

Hearings: no definite time. Board must give notice of same. (Form W28).

Board to render decision with reasonable promptness.

421. Appeals—Question of Fact—De Novo. (See Section 409.)

Appeals based on question of fact: Board may either grant hearings *de novo*, or sustain referee's decision. (Form W29).

Board may conduct independent investigation and medical examination. Cost of latter to be borne by either or both parties within discretion of Board.

422. Agreement on Facts—Disagreement on Compensation.

Upon agreement on facts, but disagreement on compensation, parties may petition Board, who, upon due notice sent, hear same. Petition to contain agreed facts, and to be signed by all parties in interest. (Forms W30, W31).

Board to fix date of hearing and to render decision with reasonable promptness.

423. Review by Board.

Agreements are subject to review by Board at all times, for fraud, etc. (Forms W32, W37, W38, W41, W42, W43, W44, W45, W46).

Board to fix time and place for such hearings and to render decisions promptly.

424. Commutation—How Obtained. (See Section 316.)

Either party may petition Board for commutation of payments. (Forms W33, W34, W37, W39, W41, W42, W43, W44, W45, W46).

Board may refer to referee questions of fact arising thereunder.

Board to fix time and place of hearings, and to notify parties thereof.

SECTION:

425. Appeals from Board. (See Section 409.)

Appeals from Board on points of law to be taken within ten days after notice of decision, and are to be filed with prothonotary of Court of Common Pleas, where accident occurred, or where adverse party resides or has place of business, or, by agreement, elsewhere. (See Section 433). ✓

Duty of Bureau to prepare and mail to proper prothonotary transcript of matter involved in appeals.

Appeals lie from Court of Common Pleas to Superior or Supreme Court.

All such appeals to have precedence over all other civil cases.

426. Amendment of Agreement or Award. (See Appendix—Appeals and Petitions (2),).

Agreement or award may be amended by subsequent agreement or petition, by reason of:

- (1) Increase, decrease or termination of disability. (Forms W14a, W35, W37).
- (2) Change of status of dependent. (Forms W15a, W36, S37).

Procedure same as in case of original agreement or petition. (See Sections 410-418). (Forms W40, W41, W42, W43, W44, W45, W46).

427. Publicity of Hearings. ✓

Hearings to be public.

428. Evidence. (See Appendix—Evidence.)

Not to be bound by technical rules of evidence. ✓

429. Judgment—Lien Thereof.

Upon agreement with employer, or filing of claim petition with Board, employee or dependents may file certified copy of same with prothonotary of Court of Common Pleas of proper county, as judgment against employer, as of date filed. (See Section 401). (See Appendix-Rulings of Board, No. 2).

To have priority from such date, but no execution to issue till approval by Board. (See Section 318, proviso).

If disapproved by Board, employer may file certified copy of same with prothonotary and have judgment stricken off.

Likewise, in case of substitution of another award, or

Modification of same, Judgment Docket to be changed accordingly.

SECTION :

430. Satisfaction of Judgment. (See Sections 317, 431.)

Employer may present to Board statements, certified by referee, of payment in part or in full, and upon approval by Board, certificate to issue, which, when duly presented to prothonotary, discharges judgment *pro tanto*. (Form W51, W51a).

431. Lien of Judgment—Effect of Appeals—Supersedeas. (See Appendix—Appeals and Petitions.)

Appeal not to divest lien of judgment.

Appeal to act as supersedeas, if

Bond is filed with Board, whereby contested payment is suspended till decision on appeal.

If award is sustained in whole or in part, payment to be made accordingly, as of date of award.

If award is annulled, prothonotary to mark judgment satisfied.

432. Prothonotary's Costs.

To be allowed, taxed and collected as upon confession of judgment.

433. Prothonotary's Reports.

Prothonotary of Common Pleas, Superior and Supreme Courts, to report monthly to Board, the disposition of all appeals taken.

ARTICLE V.

GENERAL PROVISIONS.

501. Legal Services.

All claims, etc., for legal services under Article II, to be valid and enforceable, must be approved by judge, irrespective of whether case is tried or not.

Not to be an enforceable lien against compensation under Article III, unless approved by Board.

All such claims against compensation to be filed with Bureau, who shall notify party filing, as to decision of Board. (Form W52).

Notification to employer (See Section 401) renders charge a lien on compensation. If payment is in installments, Board to fix proportion of lien.

SECTION :

502. Constitutionality.

If any part of act is held to be unconstitutional, same not to affect rest of act, except that Article II and Article III are inseparable, and neither shall stand alone. ✓

503. Prior Rights Unaffected.

Act not to be retroactive.

504. Repealing Clause.

General repealer.

505. When Effective.

Act applies only to accidents occurring after December 31, 1915.

ACT No. 343.

Persons engaged, at time of injury, in *domestic service* or *agriculture*, are exempted from provisions of Act No. 338 (Workmen's Compensation Act). (See Appendix-Rulings of Board, Nos. 6, 10, 11 and 14).

No. 338.

AN ACT

Defining the liability of an employer to pay damages for injuries received by an employe in the course of employment; establishing an elective schedule of compensation; and providing procedure for the determination of liability and compensation thereunder.

Article I. Interpretation and definition.

Article II. Defining the liability of an employer in an action at law for damages for personal injury to an employe, and abolishing in whole or in part certain defenses thereto.

Article III. Establishing a system of compensation by agreement; prescribing the method by which such agreement shall be made and terminated; defining the injuries for which compensation is payable, the persons to whom it is payable, its amount, and the condition under which and the manner in which it is payable.

Article IV. Providing a procedure for the determination and settlement of claims for compensation.

Article V. General provisions.

ARTICLE I.

Interpretation and Definition.

Section 1. Be it enacted, &c., That this act shall be called and cited as The Workmen's Compensation Act of 1915, and shall apply to all accidents occurring within this Commonwealth, irrespective of the place where the contract of hiring was made, renewed, or extended, and shall not apply to any accident occurring outside of the Commonwealth.

Section 102. Wherever in this act the singular is used, the plural shall be included; where the masculine gender is used, the feminine and neuter shall be included.

Section 103. The term "employer" as used in this act is declared to be synonymous with master, and to include natural persons, partnerships, joint-stock companies, corporations for profit, corporations not for profit, municipal corporations, the Commonwealth, and all governmental agencies created by it.

Section 104. The term "employe" as used in this act is declared to be synonymous with servant, and includes all natural persons who perform services for another for a valuable consideration, exclusive of persons whose employment is casual in character and not in the regular course of the business of the employer, and exclusive of persons to whom articles or materials

are given out to be made up, cleaned, washed, altered, ornamented, finished, or repaired, or adapted for sale, in the worker's own home, or on other premises not under the control or management of the employer.

Section 105. The term "contractor" as used in article two, section two hundred and three, and article three, section three hundred and two (b), shall not include a contractor engaged in an independent business, other than that of supplying laborers or assistants, in which he serves persons other than the employer in whose service the accident occurs, but shall include a sub-contractor to whom a principal contractor has sublet any part of the work which such principal contractor has undertaken.

Section 106. The exercise and performance of the powers and duties of a local or other public authority shall, for the purposes of this act, be treated as the trade or business of the authority.

Section 107. The term "Bureau" when used in this act shall mean the Bureau of Workmen's Compensation of the Department of Labor and Industry.

The term "Board" when used in this act shall mean the Workmen's Compensation Board of the Bureau.

ARTICLE II.

Damages by Action at Law.

Section 201. That in any action brought to recover damages for personal injury to an employe in the course of his employment, or for death resulting from such injury, it shall not be a defense—

- (a) That the injury was caused in whole or in part by the negligence of a fellow employe; or
- (b) That the employe had assumed the risk of the injury; or
- (c) That the injury was caused in any degree by the negligence of such employe, unless it be established that the injury was caused by such employe's intoxication or by his reckless indifference to danger. The burden of proving such intoxication or reckless indifference to danger shall be upon the defendant, and the question shall be one of fact to be determined by the jury.

Section 202. The employer shall be liable for the negligence of all employes, while acting within the scope of their employment, including engineers, chauffeurs, miners, mine-foremen, fire-bosses, mine superintendents, plumbers, officers of vessels, and all other employes licensed by the State or other governmental authority, if the employer be allowed by law the right of free selection of such employes from the class of persons thus licensed; and such employes shall be the agents and representatives of their employers, and their employers shall be responsible for the acts and

neglects of such employes, as in the case of other agents and employes of their employers; and, notwithstanding the employment of such employes, the property in and about which they are employed, and the use and operation thereof, shall at all times be under the supervision, management and control of their employers.

Section 203. An employer who permits the entry upon premises occupied by him or under his control, of a laborer or an assistant hired by an employe or contractor, for the performance upon such premises of a part of the employer's regular business entrusted to such employe or contractor, shall be liable to such laborer or assistant in the same manner and to the same extent as to his own employe.

Section 204. No agreement, composition, or release of damages made before the happening of any accident, except the agreement defined in article three of this act, shall be valid or shall bar a claim for damages for the injury resulting therefrom; and any such agreement, other than that defined in article three herein, is declared to be against the public policy of this Commonwealth. The receipt of benefits from any association, society, or fund shall not bar the recovery of damages by action at law, nor the recovery of compensation under article three hereof; and any release executed in consideration of such benefits shall be void.

ARTICLE III.

Elective Compensation.

Section 301. When employer and employe shall by agreement, either express or implied, as hereinafter provided, accept the provisions of article three of this act, compensation for personal injury to, or for the death of, such employe, by an accident, in the course of his employment, shall be made in all cases by the employer, without regard to negligence, according to the schedule contained in sections three hundred and six and three hundred and seven of this article; provided that no compensation shall be made when the injury or death be intentionally self-inflicted, but the burden of proof of such fact shall be upon the employer.

The terms "injury" and "personal injury" as used in this act shall be construed to mean only violence to the physical structure of the body, and such disease or infection as naturally results therefrom; and wherever death is mentioned as a cause for compensation under this act, it shall mean only death resulting from such violence and its resultant effects, and occurring within three hundred weeks after the accident. The term "injury by an accident in the course of his employment," as used in this article, shall not include

an injury caused by an act of a third person intended to injure the employe because of reasons personal to him, and not directed against him as an employe or because of his employment; but shall include all other injuries sustained while the employe is actually engaged in the furtherance of the business or affairs of the employer, whether upon the employer's premises or elsewhere, and shall include all injuries caused by the condition of the premises or by the operation of the employer's business or affairs thereon, sustained by the employe, who, though not so engaged, is injured upon the premises occupied by or under the control of the employer, or upon which the employer's business or affairs are being carried on, the employe's presence thereon being required by the nature of his employment.

Section 302. (a) In every contract of hiring made after December thirty-first, one thousand nine hundred and fifteen, and in every contract of hiring renewed or extended by mutual consent, expressed or implied, after said date, it shall be conclusively presumed that the parties have accepted the provisions of article three of this act, and have agreed to be bound thereby, unless there be, at the time of the making, renewal, or extension of such contract, an express statement in writing, from either party to the other, that the provisions of article three of this act are not intended to apply, and unless a true copy of such written statement, accompanied by proof of service thereof upon the other party, setting forth under oath or affirmation the time, place, and manner of such service, be filed with the Bureau within ten days after such service and before any accident has occurred. Every contract of hiring, oral, written, or implied from circumstances, now in operation, or made or implied on or before December thirty-first, one thousand nine hundred and fifteen, shall be conclusively presumed to continue subject to the provisions of article three hereof, unless either party shall, on or before said date, in writing, have notified the other party to such contract that the provisions of article three hereof are not intended to apply, and unless there shall be filed with the Bureau a true copy of such notice, together with proof of service, within the time and in the manner hereinabove prescribed: Provided, however, That the provisions of this section shall not be so construed as to impair the obligation of any contract now in force. In the employment of minors, article three shall be presumed to apply, unless the said written notice be given by or to the parent or guardian of the minor. It shall not be lawful for any officer or agent of this Commonwealth, or for any county, city, borough, or township therein, or for any officer or agent thereof, or for any other

governmental authority created by the laws of this Commonwealth, to give such notice of rejection of the provisions of this article to any employe of the State or of such governmental agency.

(b) After December thirty-first, one thousand nine hundred and fifteen, an employer who permits the entry, upon premises occupied by him or under his control, of a laborer or an assistant hired by an employe or contractor, for the performance upon such premises of a part of the employer's regular business entrusted to that employe or contractor, shall be conclusively presumed to have agreed to pay to such laborer or assistant compensation in accordance with the provisions of article three, unless the employer shall post in a conspicuous place, upon the premises where the laborer's or assistant's work is done, a notice of his intention not to pay such compensation, and unless there be filed with the Bureau, within ten days thereafter and before any accident has occurred, a true copy of such notice, together with proof of the posting of the same, setting forth upon oath or affirmation the time, place, and manner of such posting; and after December thirty-first, one thousand nine hundred and fifteen, any such laborer or assistant who shall enter upon premises occupied by or under the control of such employer, for the purpose of doing such work, shall be conclusively presumed to have agreed to accept the compensation provided in article three, in lieu of his right of action under article two, unless he shall have given notice in writing to the employer, at the time of entering upon such employer's premises for the purpose of doing his work, of his intention not to accept such compensation, and unless within ten days thereafter and before any accident has occurred there shall have been filed with the Bureau a true copy of such notice, accompanied by proof of service thereof upon such employer, setting forth under oath or affirmation the time, place, and manner of such service. And in such cases, where article three binds such employer and such laborer or assistant, it shall not be in effect between the intermediate employer or contractor and such laborer or assistant, unless otherwise expressly agreed.

Section 303. Such agreement shall constitute an acceptance of all the provisions of article three of this act, and shall operate as a surrender by the parties thereto of their rights to any form or amount of compensation or damages for any injury or death occurring in the course of the employment, or to any method of determination thereof, other than as provided in article three of this act. Such agreement shall bind the employer and his personal representatives, and the employe, his or her wife or husband, widow or widower, next of kin, and other dependents.

Section 304. Any agreement between employer and employe for the operation or non-operation of the provisions of article three of this act may be terminated prior to any accident, by either party, upon sixty days' notice to the other in writing, if a copy of such notice, with proof of service, be filed in the Bureau, as provided in section three hundred and two of this article.

Section 305. Every employer liable under this act to pay compensation shall insure the payment of compensation in the State Workmen's Insurance Fund, or in any insurance company, or mutual association or company, authorized to insure such liability in this Commonwealth, unless such employer shall be exempted by the Bureau from such insurance. An employer desiring to be exempt from insuring the whole or any part of his liability for compensation shall make application to the Bureau, showing his financial ability to pay such compensation, whereupon the Bureau, if satisfied of the applicant's financial ability, shall by written order make such exemption. The Bureau may, from time to time, require further statements of the financial ability of such employer, and, if at any time such employer appear no longer able to pay compensation, shall revoke its order granting exemption; in which case the employer shall immediately subscribe to the State Fund, or insure his liability in a mutual association or company, as aforesaid.

If an employer shall fail to comply with the provisions of this section the Bureau shall, by registered mail, or in such other manner as the rules and regulations of the Bureau shall provide, serve upon such employer a notice to forthwith comply with such provisions; and if such employer does not, within thirty days thereafter, insure his liability as aforesaid, or satisfy the Bureau of his financial ability to pay compensation as aforesaid, or does not terminate his acceptance of article three of this act in the manner provided in section three hundred and four of the said article, such employer shall be liable for compensation under article three of this act to any employe injured thereafter, or to his personal representative, or for damages under article two of this act, at the option of such employe or his personal representatives: Provided, That such option be exercised by the employe and written notice given to the employer within thirty days after the accident: And provided further, That, until the expiration of the said thirty days from the giving of the notice by the Bureau, the employer shall be liable only for compensation under article three of this act, and that, if he shall terminate his acceptance under section three hundred and four of

article three of this act, he shall be liable only for compensation under article three of this act until such termination of acceptance shall become effective.

Section 306. The following schedule of compensation is hereby established for injuries resulting in total disability:—

(a) For the first five hundred weeks after the fourteenth day of total disability, fifty per centum of the wages of the injured employe, as defined in section three hundred and nine; but the compensation shall not be more than ten dollars per week nor less than five dollars per week, and shall not exceed in aggregate the sum of four thousand dollars: Provided, That, if at the time of injury the employe receives wages of less than five dollars per week, then he shall receive the full amount of such wages per week as compensation. Nothing in this clause shall require the payment of compensation after disability shall cease. Should partial disability be followed by total disability, the period of five hundred weeks mentioned in this clause of this section shall be reduced by the number of weeks during which compensation was paid for such partial disability.

(b) For disability partial in character (except the particular cases mentioned in clause (c)), fifty per centum of the difference between the wages of the injured employe, as defined in section three hundred and nine, and the earning power of the employe thereafter; but such compensation shall not be more than ten dollars per week. This compensation shall be paid during the period of such partial disability; not, however, beyond three hundred weeks after the fourteenth day of such total disability. Should total disability be followed by partial disability, the period of three hundred weeks mentioned in this clause shall be reduced by the number of weeks during which compensation was paid for such total disability.

(c) For all disability resulting from permanent injuries of the following classes, the compensation shall be exclusively as follows:

For the loss of a hand, fifty per centum of wages during one hundred and seventy-five weeks.

For the loss of an arm, fifty per centum of wages during two hundred and fifteen weeks.

For the loss of a foot, fifty per centum of wages during one hundred and fifty weeks.

For the loss of a leg, fifty per centum of wages during two hundred and fifteen weeks.

For the loss of an eye, fifty per centum of wages during one hundred and twenty-five weeks.

For the loss of any two or more of such members, not constituting total disability, fifty per centum of wages during the aggregate of the periods specified for each.

Unless the Board shall otherwise determine, the loss of both hands or both arms, or both feet, or both legs, or both eyes, shall constitute total disability, to be compensated according to the provisions of clause (a).

Amputation between the elbow and the wrist shall be considered as the equivalent of the loss of a hand, and amputation between the knee and ankle shall be considered as the equivalent of the loss of a foot. Amputation at or above the elbow shall be considered as the loss of an arm, and amputation at or above the knee shall be considered as the loss of a leg. Permanent loss of the use of a hand, arm, foot, leg, or eye shall be considered as the equivalent of the loss of such hand, arm, foot, leg, or eye.

This compensation shall not be more than ten dollars per week nor less than five dollars per week: Provided, That, if at the time of injury the employe receives wages of less than five dollars per week, then he shall receive the full amount of such wages per week as compensation.

(d) No compensation shall be allowed for the first fourteen days after disability begins, except as hereinafter provided in clause (e) of this section.

(e) During the first fourteen days after disability begins the employer shall furnish reasonable surgical, medical, and hospital services, medicines and supplies, as and when needed, unless the employe refuses to allow them to be furnished by the employer. The cost of such services, medicines, and supplies shall not exceed twenty-five dollars, unless a major surgical operation shall be necessary; in which case the cost shall not exceed seventy-five dollars. If the employer shall, upon application made to him, refuse to furnish such services, medicines, and supplies, the employe may procure the same, and shall receive from the employer the reasonable cost thereof within the above limitations. If the employe shall refuse reasonable surgical, medical, and hospital services, medicines and supplies, tendered to him by his employer, he shall forfeit all right to compensation for any injury or any increase in his incapacity shown to have resulted from such refusal.

(f) Should the employe die as a result of the injury, the period during which compensation shall be payable to his dependents, under section three hundred and six of this article, shall be reduced by the period during which compensation was paid to him in his lifetime, under this section of this article. No reduction shall be made for the amount which may have been paid for medical and hospital services and medicines, nor for the expenses of the last sickness and burial. Should the employe die from some other cause than the injury, the liability for compensation shall cease.

Section 307. In case of death, compensation shall be computed on the following basis, and distributed to the following persons:—

1. To the child or children, if there be no widow nor widower entitled to compensation, twenty-five per centum of wages of deceased, with ten per centum additional for each child in excess of two, with a maximum of sixty per centum, to be paid to their guardian.

2. To the widow or widower, if there be no children, forty per centum of wages.

3. To the widow or widower, if there be one child, forty-five per centum of wages.

4. To the widow or widower, if there be two children, fifty per centum of wages.

5. To the widow or widower, if there be three children, fifty-five per centum of wages.

6. To the widow or widower, if there be four or more children, sixty per centum of wages.

7. If there be neither widow, widower, nor children, then to the father and mother, or the survivor of them, if dependent to any extent upon the employe for support at the time of his death, twenty per centum of wages.

8. If there be neither widow, widower, children, nor dependent parent, then to the brothers and sisters, if actually dependent to any extent upon the decedent for support at the time of his death, fifteen per centum of wages for one brother or sister, and five per centum additional for each additional brother or sister, with a maximum of twenty-five per centum; such compensation to be paid to their guardian.

9. Whether or not there be dependents, as aforesaid, the reasonable expenses of the last sickness and burial, not exceeding one hundred dollars (without deduction of any amounts theretofore paid for compensation or for medical expenses), payable to the dependents, or, if there be no dependents, then to the personal representatives of the deceased.

Compensation shall be payable under this section to or on account of any child, brother, or sister, only if and while such child, brother, and sister is under the age of sixteen. No compensation shall be payable under this section to a widow, unless she was living with her deceased husband at the time of his death, or was then actually dependent upon him for support. No compensation shall be payable under this section to a widower, unless he be incapable of self-support at the time of his wife's death and be at such time dependent upon her for support. The terms "child" and "children" shall include step-children and adopted children, and children to whom he stood in loco parentis, if members of decedent's household at the time of his death, and shall include posthumous children.

Should any dependent of a deceased employe die, or should the widow or widower remarry, or should the widower become capable of self-support, the right of such dependent, or such widow or widower, to compensation under this section, shall cease. If the compensation payable under this section to any person shall, for any cause, cease, the compensation to the remaining persons entitled thereunder shall thereafter be the same as would have been payable to them had they been the only persons entitled to compensation at the time of the death of the deceased.

The wages upon which death compensation shall be based shall not, in any case, be taken to exceed twenty dollars per week, nor be less than ten dollars per week.

This compensation shall be paid during three hundred weeks, and, in the case of children entitled to compensation under this section, the compensation of each child shall continue after said period of three hundred weeks until such child reach the age of sixteen, at the rate of fifteen per centum of wages, if there be but one child, with ten per centum additional for each additional child, with a maximum of fifty per centum.

Section 308. Except as hereinafter provided, all compensation payable under this article shall be payable in periodical instalments, as the wages of the employe were payable before the accident.

Section 309. Wherever in this article the term "wages" is used, it shall be construed to mean the money rate at which the service rendered is compensated under the contract of hiring in force at the time of the accident, and shall not include gratuities received from the employer or others; nor shall it include board, lodging or similar advantages received from the employer, unless the money value of such advantages shall have been fixed by the parties at the time of hiring; nor shall it include amounts deducted by the employer, under the contract of hiring, for labor, material, supplies, tools, or other things furnished or paid for by the employer, and necessary for the performance of such contract by the employe. In occupations involving seasonal employment or employment dependent upon the weather, the employe's weekly wages shall be taken to be one-fiftieth of the total wages which he has earned from all occupations during the year immediately preceding the accident, unless it be shown that during such year, by reason of exceptional causes, such method of computation does not ascertain fairly the earnings of the employe; in which case the period for calculation shall be extended so far as to give a basis for the fair ascertainment of his average weekly earnings. In continuous employments, if immediately prior to the accident the

rate of wages was fixed by the day or hour, or by the output of the employe, his weekly wages shall be taken to be five and one-half times his average earnings at such rate for a working day of ordinary length, excluding earnings from overtime, and using as a basis of calculation his earnings during so much of the preceding six months as he worked for the same employer. Where the employe is working under concurrent contracts with two or more employers, his wages from all employers shall be considered as if earned from the employer liable for compensation.

Section 310. Compensation under this article to alien dependent widows and children, not residents of the United States, shall be two-thirds of the amount provided in each case for residents; and the employer may, at any time, commute all future instalments of compensation payable to alien dependents, not residents of the United States, by paying to such alien dependents the then value thereof, calculated in accordance with the provisions of section three hundred and sixteen of this article. Alien widowers, parents, brothers, and sisters, not residents of the United States, shall not be entitled to any compensation.

Non-resident alien dependents may be officially represented by the Consular officers of the nation of which such alien or aliens may be citizens or subjects, and in such cases the Consular officers shall have the right to receive, for distribution to such non-resident alien dependents, all compensation awarded hereunder, and the receipt of such Consular officers shall be a full discharge of all sums paid to and received by them.

Section 311. Unless the employer shall have actual knowledge of the occurrence of the injury, or unless the employe or some one in his behalf, or some of the dependents or some one in their behalf, shall give notice thereof to the employer within fourteen days after the accident, no compensation shall be due until such notice be given or knowledge obtained; but if the employe or other beneficiary shall show that his delay in giving notice was due to his mistake or ignorance of fact or of law, or to his physical or mental inability, or to fraud, misrepresentation or deceit, or to any other reasonable cause or excuse, then compensation shall be allowed, unless the employer shall show that he did not know, and by reasonable diligence could not have learned, of the accident, and that he was prejudiced by the delay; in which case he shall be relieved to the extent of such prejudice.

Section 312. The notice referred to in section three hundred and eleven hereof shall be substantially in the following form:

To (name of employer).

You are hereby notified that an injury of the following character (.....) was suffered

by (name of employe injured), who was in your employment at (place), while engaged as (kind of employment) on or about the () day of (), Anno Domini (), and that compensation will be claimed therefor.

Date: Signed ().

But no variation from this form shall be material if the notice be sufficient to inform the employer that a certain employe, by name, received an injury, the character of which is described in ordinary language, in the course of his employment on or about a time specified and at or near a place specified.

Section 313. The notices referred to in section three hundred and two and section three hundred and eleven hereof may be served personally upon the employer, or upon the manager or superintendent in charge of the works or business in which the accident occurred, or by sending them through the registered mail to the employer at his or its last known residence or place of business, or, if the employer be a corporation either foreign or domestic, then upon the president, vice-president, secretary, or treasurer thereof. Knowledge of the occurrence of the injury on the part of any of said agents shall be the knowledge of the employer.

Section 314. At any time after an injury the employe, if so requested by his employer, must submit himself for examination, at some reasonable time and place, to a physician or physicians legally authorized to practice under the laws of such place, who shall be selected and paid by the employer. If the employe shall refuse, upon the request of the employer, to submit to the examination by the physician or physicians selected by the employer, the Board may, upon petition of the employer, order the employe to submit to an examination at a time and place set by it, and by the physician or physicians selected and paid by the employer, or by a physician or physicians designated by it and paid by the employer; and if the employe shall, without reasonable cause or excuse, disobey or disregard such order, he shall be deprived of his right to compensation under this article. The Board may at any time after such first examination, upon petition of the employer, order the employe to submit himself to such further examinations as it shall deem reasonable and necessary, at such times and places and by such physicians as it may designate; and, in such case, the employer shall pay the fees and expenses of the examining physician or physicians, and the reasonable traveling expenses and loss of wages incurred by the employe in order to submit himself to such examination. The refusal or neglect, without reasonable cause or excuse, of the employe to submit to such examination ordered by the Board, either be-

fore or after an agreement or award, shall deprive him of the right to compensation, under this article, during the continuance of such refusal or neglect, and the period of such neglect or refusal shall be deducted from the period during which compensation would otherwise be payable.

The employe shall be entitled to have a physician or physicians of his own selection, to be paid by him, participate in any examination requested by his employer or ordered by the Board.

Section 315. In cases of personal injury all claims for compensation shall be forever barred, unless, within one year after the accident, the parties shall have agreed upon the compensation payable under this article; or unless, within one year after the accident, one of the parties shall have filed a petition as provided in article four hereof. In cases of death all claims for compensation shall be forever barred, unless, within one year after the death, the parties shall have agreed upon the compensation under this article; or unless, within one year after the death, one of the parties shall have filed a petition as provided in article four hereof. Where, however, payments of compensation have been made in any case, said limitations shall not take effect until the expiration of one year from the time of the making of the last payment.

Section 316. The compensation contemplated by this article may at any time be commuted by the Board, at its then value when discounted at five per centum interest, with annual rests, disregarding the probability of the beneficiary's death, upon application of either party, with due notice to the other, if it appear that such commutation will be for the best interest of the employe or the dependents of the deceased employe, and that it will avoid undue expense or undue hardship to either party, or that such employe or dependent has removed or is about to remove from the United States, or that the employer has sold or otherwise disposed of the whole or the greater part of his business or assets. Except as provided in section three hundred and ten hereof, and in this section, no commutation of compensation shall be made.

Section 317. At any time after the approval of an agreement or after the entry of the award, a sum equal to all future instalments of compensation may (where death or the nature of the injury renders the amount of future payments certain), with the approval of the Bureau, be paid by the employer to any savings bank, trust company, or life insurance company, in good standing and authorized to do business in this State, and such sum, together with all interest thereon, shall thereafter be held in trust for the em-

ploye or the dependents of the employe, who shall have no further recourse against the employer. The payment of such sum by the employer, evidenced by the receipt of the trustee noted upon the prothonotary's docket, shall operate as a satisfaction of said award as to the employer. Payments from said fund shall be made by the trustee, in the same amounts and at the same periods, as are herein required of the employer, until said fund and interest shall be exhausted. In the appointment of the trustee preference shall be given, in the discretion of the court, to the choice of the employe or the dependents of the deceased employe. Should, however, there remain any unexpended balance of any fund after the payment of all sums due under this act, such balance shall be repaid to the employer who made the original payment, or to his legal representatives.

Section 318. The right of compensation granted by this article of this act shall have the same preference (without limit of amount) against the assets of an employer, liable for such compensation, as is now or may hereafter be allowed by law for a claim for unpaid wages for labor: Provided, however, That no claim for compensation shall have priority over any judgment, mortgage, or conveyance of land recorded prior to the filing of the petition, award, or agreement as to compensation in the office of the prothonotary of the county in which the land is situated. Claims for payments due under this article of this act shall not be assignable, and (except as provided in section five hundred and one of article five hereof) shall be exempt from all claims of creditors, and from levy, execution, or attachment, which exemption may not be waived.

Section 319. Where a third person is liable to the employe or the dependents for the injury or death, the employer shall be subrogated to the right of the employe or the dependents against such third person, but only to the extent of the compensation payable under this article by the employer. Any recovery against such third person in excess of the compensation theretofore paid by the employer shall be paid forthwith to the employe or to the dependents, and shall be treated as an advance payment by the employer on account of any future instalments of compensation.

ARTICLE IV.

Procedure.

Section 401. The term "Referee" when used in this article shall mean Workmen's Compensation Referee.

The term "Fund" when used in this article shall mean the State Insurance Fund of this Commonwealth.

The term "employer" when used in this article shall mean the employer as defined in article one of this act, or his duly authorized agent, or his insurer if such insurer has assumed the employer's liability, or the fund if the employer be insured therein.

Section 402. All proceedings before the Board or any referee, and all appeals to the Board, shall be instituted by petition addressed to the Board. All petitions shall be in writing and in the form prescribed by the Board.

Section 403. All petitions, all copies of agreements for compensation, and all other papers requiring action by the Board, shall be mailed or delivered to the Bureau at its principal office.

Section 404. The Bureau shall, immediately upon their receipt, properly file and docket all petitions, agreements for compensation, findings of fact by the Board or any referee, awards or disallowances of compensation, or modifications thereof, and all other reports or papers filed with it under the provisions of this act or the rules and regulations of the Board.

Section 405. The Bureau shall, by mail or in such other manner as the Board shall direct, transmit to the Board or the proper referee true copies of all petitions, agreements, or other papers requiring action by the Board or a referee.

Section 406. At the close of each day the Board and all referees shall, in such manner as the rules of the Board shall prescribe, transmit to the Bureau all findings of fact, awards or disallowances of compensation, or modifications thereof, or other decisions or reports rendered during the day.

Section 407. Immediately upon receiving from the Board or any referee any approval or disapproval of any agreement for, or any award or disallowance of, compensation, or any modification thereof, or any other decision, the Bureau shall serve a certified copy thereof on all parties in interest.

Section 408. All notices and certified copies to which any party shall be entitled under the provisions of this article shall be served by mail, or in such other manner as the Board shall direct. For the purposes of this article any notice or certified copy shall be deemed served on the date when mailed, properly stamped and addressed, and shall be presumed to have reached the party to be served; but any party may show by competent evidence that any notice or certified copy was not received, or that there was unusual or unreasonable delay in its transmission through the mails. In any such case proper allowance shall be made for the party's failure within the prescribed time to assert any right given him by this act.

The Bureau, the Board, and every referee shall keep a careful record of the date of mailing every notice and certified copy required by this act to be served on the parties in interest.

Section 409. A referee's findings of fact shall be final, unless the Board shall allow an appeal therefrom as hereinafter provided. The Board's findings of fact shall in all cases be final.

From the referee's decision on any question of law an appeal may be taken to the Board, and from any decision of the Board on a question of law an appeal may be taken to the courts as hereinafter provided.

Section 410. On or after the fourteenth day after any accident shall have occurred, the employer and the employe or his dependent may agree upon the compensation payable to the employe or his dependent under this act; but any agreement made prior to the fourteenth day after the accident shall have occurred, or permitting a commutation of payments contrary to the provisions of this act, or varying the amount to be paid or the period during which compensation shall be payable as provided in this act, shall be wholly null and void.

All agreements made in accordance with the provisions of this section shall be in writing, and signed by all parties in interest.

Section 411. Whenever an agreement shall be executed between an employer and an employe or his dependent as provided by this act, a certified copy of the same signed by all parties in interest shall be mailed or delivered to the Board. It shall be the duty of the Board to examine the agreement, and to determine whether it conforms to the provisions of section four hundred and ten, and, within thirty days after the copy of the agreement has been mailed or delivered to it, to notify the parties thereto of its validity or invalidity under the aforesaid section: Provided, however, That any payment made in accordance with any agreement prior to the receipt of notice of invalidity shall discharge pro tanto the liability, under article three of this act, of the employer making such payments.

Section 412. If, after any accident, the employer and the employe or his dependent, concerned in any accident, shall fail to agree upon the facts thereof and the compensation due under this act, the employe or his dependent may present a claim for compensation to the Board.

Section 413. Whenever a claim-petition shall be presented to the Board, the Bureau shall promptly assign it to a referee for hearing and determination. The Bureau shall forthwith notify such referee that the petition has been assigned to him, and shall serve upon each adverse party in interest a certified copy

of the petition, and a notice that, unless an answer shall within seven days be filed with the referee to whom the petition has been assigned (giving his name and address), the allegations of the petition shall be deemed admitted.

Section 414. Within seven days after a certified copy of the petition and a notice as herein required shall have been served upon any adverse party, he may file with the referee designated in the notice an answer in the form prescribed by the rules and regulations of the Board.

Section 415. Seven days after notice of a claim-petition shall have been served upon the adverse parties thereto, the referee shall fix a time and place for hearing the claim, and shall notify all the parties in interest. The time of hearing shall be not less than twelve days nor more than twenty-one days after notice of the filing of the petition shall have been mailed or delivered to all adverse parties thereto. Together with the notice of the time and place of hearing, a copy of any answer filed by any adverse party shall be mailed or delivered to the petitioner or petitioners.

Whenever all adverse parties in interest have concurred in the answer, all facts not denied therein shall be deemed admitted, and no testimony shall be required from the petitioner or petitioners, or heard on behalf of the adverse parties, upon any fact not controverted in such answer.

Section 416. The referee designated by the Bureau, or such other referee as the Board shall substitute for him, shall hear evidence relating to the claim at the time and place stated in the notice to the parties.

Section 417. The referee, if he shall deem it necessary, shall, either before or after any hearing, make an investigation of the facts set forth in the petition, or cause the same to be made. With the consent of the Board he may appoint one or more impartial physicians or surgeons to examine the injuries of the plaintiff and report thereon, or he may employ the services of such other experts as shall appear necessary to ascertain the facts. The Board shall fix the compensation of such physicians, surgeons, and experts, and the referee shall tax the same as a part of the cost of the proceedings, to be paid by either party, or both, as the Board may direct. The report of any physician, surgeon, or expert appointed by the referee shall be filed with him, and shall be a part of the record and open to inspection by any party to the same.

Section 418. Within seven days after the conclusion of any hearing the referee shall, in writing, state his findings of fact, his award or disallowance of com-

pensation in accordance with the provisions of this act, and such other matters as the rules of the Board shall require.

Section 419. Any party in interest may, within ten days after notice of a referee's award or disallowance of compensation shall have been served on him, take an appeal to the Board on the ground: (1) That the award or disallowance of compensation is not in conformity with the terms of this act, or that the referee committed any other error of law; or (2) that the findings of fact and award or disallowance of compensation was unwarranted by the evidence; or because of fraud, coercion, or other improper conduct by any party in interest.

Section 420. Whenever an appeal shall be based upon an alleged error of law, it shall be the duty of the Board to grant a hearing thereon. The Board shall fix a time and place for such hearing, and shall serve notice thereof on all parties in interest.

As soon as may be after any such hearing, the Board shall either sustain or reverse the referee's award or disallowance of compensation, or make such modification thereof as it shall deem proper.

Section 421. Whenever an appeal shall be taken on the ground that the referee's award or disallowance of compensation was unwarranted by the evidence, or because of fraud, coercion, or other improper conduct by any party in interest, the Board may, in its discretion, grant a hearing *de novo* or sustain the referee's award or disallowance of compensation. If the Board shall grant a hearing *de novo*, it shall fix a time and place for the same and shall notify all parties in interest.

The Board shall at all times have the power to make any investigation which it shall deem necessary to ascertain the facts. It may employ physicians, surgeons, or other experts to aid in its investigation; and shall in all cases fix the compensation of such physicians, surgeons, or experts, and tax the same as a part of the costs of the proceedings, to be paid by either party, or both, as the Board may direct.

As soon as may be after any hearing *de novo* by the Board, it shall in writing state its findings of fact, and award or disallow compensation in accordance with the provisions of this act.

Section 422. Whenever the employer and the employee or his dependent shall, on or after the fourteenth day after any accident, agree on the facts on which a claim for compensation depends, but shall fail to agree on the compensation payable thereunder, they may by petition request the Board to determine the compensation payable. Such petition shall contain the agreed facts and shall be signed by all par-

ties in interest. The Board shall fix a time and place for hearing the petition, and shall notify all parties in interest. As soon as may be after such hearing, the Board shall award or disallow compensation in accordance with the provisions of this act.

Section 423. All agreements for compensation shall be subject to review by the Board at any time, upon presentation of a petition alleging fraud, mistake, coercion, or other proper cause. The Board shall fix a time and place for hearing the petition, and shall notify all parties in interest.

As soon as may be after such hearing, the Board shall either ratify or disapprove the agreement.

Section 424. If any party shall desire the commutation of future instalments of compensation, he shall present a petition therefor to the Board. The Board shall appoint a time and place for hearing the petition, and shall notify all parties in interest.

Every such petition shall be heard by the Board, but the Board may refer any question of fact arising out of such petition to a referee, whose findings shall be final, unless upon petition the Board shall, for cause shown, grant a hearing on the facts.

The Board shall fix a time and place for the hearing, and shall notify all parties in interest.

Section 425. If any party in interest shall desire to appeal from the decision of the Board on matters of law, he shall, within ten days after notice of its decision shall have been served on him, file a notice of appeal with the prothonotary of the court of common pleas of the county in which the accident occurred, or of the county in which the adverse party resides or has a permanent place of business, or, by agreement of the parties, to the court of common pleas of any other county. In such case it shall be the duty of the Bureau, within ten days, to prepare and mail or deliver to the prothonotary of the proper county a transcript of the agreement or finding of fact and award or disallowance of compensation, or modification thereof, involved in the appeal.

Any appeal from a decision of the Board to the courts of common pleas, and from them to the Supreme or Superior Court, shall take precedence over all other civil cases.

Section 426. Any agreement or award of compensation may be modified or terminated at any time by a subsequent agreement approved by the Board, and may be modified or terminated by the Board or a referee designated by the Board, on the petition of either party, on the ground that the incapacity of the injured employe has subsequently increased, decreased, or terminated, or that the status of any dependent has changed. In such case the procedure

shall be the same as that provided in the case of an original agreement or petition.

Section 427. All hearings before the Board or before a referee shall be public.

Section 428. Neither the Board nor any referee shall be bound by the technical rules of evidence in conducting any hearing or investigation.

Section 429. Wherever, after an accident, any employee or his dependents shall have entered into a compensation agreement with his employer, or shall file a claim-petition with the Board, he may file a certified copy thereof with the prothonotary of the court of common pleas of any county. The prothonotary shall enter the amount stipulated in any such agreement or claimed in any such petition as a judgment against the employer. If the agreement be approved by the Board, or compensation awarded as claimed in the petition, the amount of compensation stipulated in the agreement or claimed in the petition shall be a lien, as of the date when the agreement or petition was filed with the prothonotary. Pending the approval of the agreement or the award of compensation, no other lien which may be attached to the employer's property during such time shall gain priority over the lien of such agreement or award; but no execution shall issue on any compensation judgment before the approval of the agreement or the award of compensation on the said petition.

If the agreement be disapproved, or, after hearing, compensation shall be disallowed, the employer may file with the prothonotary of any county in which the petition or agreement is on record as a judgment, a certified copy of the disapproval of the agreement or disallowance of compensation, and it shall be the duty of such prothonotary to strike off the judgment.

If the amount of compensation claimed be disallowed, but another amount awarded, the compensation judgment shall be a lien to the extent of the award, as of the date of filing the petition with the prothonotary, with the same effect as to other liens and the same disability to issue execution thereon as if the compensation claimed had been allowed. In such cases the prothonotary shall make such modification of the record as shall be appropriate.

If, after approval of the agreement or award, the agreement or award be subsequently modified, either party may file with the prothonotary a certified copy of the modified award or agreement, and it shall be the duty of the prothonotary to make such modification of the record as shall be appropriate, and the lien of the judgment shall be modified accordingly.

Section 430. If any party against whom a compensation agreement or award is on record in any

county of this Commonwealth shall, at any time, present to the Board receipts or copies thereof, certified by any referee, showing the payment of compensation as required by the agreement or award in full, to the date of presentation to the referee, the Board shall issue a certificate to such party in the form prescribed, stating the extent to which the judgment of the agreement or award has been reduced. Upon presentation of such certificate to the prothonotary of any county in which the agreement or award is on record, it shall be the prothonotary's duty to mark the judgment satisfied to the extent of the payments so certified.

Section 431. The lien of any judgment entered upon any award shall not be divested by any appeal. If, however, the party appealing from the award shall file with the Board a bond, in such amount and in such form as the rules and regulations of the Board shall direct, the appeal shall, pending its decision, excuse the payment of so much of the compensation as is contested therein; but if the final decision on appeal shall sustain the award, it shall be the duty of the employer by whom such award is payable to make payments of compensation as from the date of the original award. If on appeal the award is sustained as to a part, it shall be the duty of the employer by whom such part is payable to make payments as from the date of the original award. In case the award is annulled on appeal, it shall be the duty of the prothonotary of any county in which such award has been entered as a judgment to mark it satisfied.

Section 432. The cost of the prothonotary for entering the amount of compensation as provided in this act, or making a modification of the record, or marking the judgment satisfied, shall be allowed, taxed, and collected as upon a confession of judgment.

Section 433. It shall be the duty of the prothonotary of each court of common pleas, and of the Supreme and Superior Courts of the Commonwealth, to make a monthly report to the Board of the disposition of all appeals taken to such court under the provisions of this article.

ARTICLE V

General Provisions.

Section 501. No claim or agreement for legal services or disbursements in support of any demand made or suit brought under the provisions of article two of this act shall be an enforceable lien against the amount to be paid as damages, or be valid or binding in any other respect, unless the same be approved in writing by the judge presiding at the trial, or, in

case of settlement without trial, by a judge of the common pleas court of the county in which the accident occurred.

No claim or agreement for legal services or disbursements in support of any claim for compensation, or in preparing any agreement for compensation, under article three of this act, shall be an enforceable lien against the amount to be paid as compensation, or be valid or binding in any other respect, unless the same be approved by the Board. Any such claim or agreement shall be filed with the Bureau, which shall, as soon as may be, notify the person by whom the same was filed of the Board's approval or disapproval thereof, as the case may be.

After the approval as herein required, if the employer be notified in writing of such claim or agreement for legal services and disbursements, the same shall be a lien against any amount thereafter to be paid as damages or compensation: Provided, however, That where the employee's compensation is payable by the employer in periodical instalments, the Board shall fix, at the time of approval, the proportion of each instalment to be paid on account of legal services and disbursements.

Section 502. If any provision of this act shall be held by any court to be unconstitutional, such judgment shall not affect any other section or provision of this act, except that articles two and three are hereby declared to be inseparable and as one legislative thought; and if either article be declared by such court void or inoperative in an essential part, so that the whole of such article must fall, the other article shall fall with it and not stand alone.

Section 503. Nothing in this act shall affect or impair any right of action which shall have accrued before this act shall take effect.

Section 504. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

Section 505. This act shall not apply in the case of an accident occurring prior to the first day of January next succeeding its passage and approval.

APPROVED—The 2d day of June, A. D. 1915.

MARTIN G. BRUMBAUGH.

The foregoing is a true and correct copy of the Act of the General Assembly No. 338.



Secretary of the Commonwealth.

No. 339.

AN ACT

To provide for the administration of the Workmen's Compensation Act of 1915 by creating the Bureau of Workmen's Compensation of the Department of Labor and Industry; providing for the establishment of a Workmen's Compensation Board to have charge of such Bureau; authorizing the division of the Commonwealth into workmen's compensation districts, and the appointment of Workmen's Compensation Referees; defining the powers and duties of the Commissioner of Labor and Industry, the Bureau of Workmen's Compensation, the Workmen's Compensation Board, the Workmen's Compensation Referees, and the factory inspectors of the Department of Labor and Industry, in enforcing the said act; and fixing the salaries of the members of the Workmen's Compensation Board, the Workmen's Compensation Referees, and certain of their employees and assistants.

Section 1. Be it enacted, &c., That the Bureau of Workmen's Compensation of the Department of Labor and Industry is hereafter called Bureau.

The Workmen's Compensation Board is hereinafter called the Board.

The Commissioner of Labor and Industry is herein-after called the Commissioner.

The Workmen's Compensation Referee is hereinafter called the Referee.

Section 2. The Bureau of Workmen's Compensation of the Department of Labor and Industry is hereby created.

Section 3. The Board is hereby created to supervise and direct the Bureau. It shall consist of three members, who shall be appointed by the Governor, by and with the advice and consent of the Senate. The Commissioner shall be an ex officio member of the Board, but shall not vote on orders, decisions, or awards. The members of the Board shall be appointed for terms of four years, but they shall at all times be removable by the Governor, by and with the advice and consent of the Senate.

Whenever a vacancy on the Board shall occur because of the death, resignation, or removal of a member, the Governor shall, by and with the advice and consent of the Senate, appoint a member of the Board to fill the remainder of the term of the member whose death, resignation, or removal created the vacancy.

Section 4. The Governor shall designate a member of the Board to serve as its chairman during his term of office. It shall be the duty of the chairman, when present, to preside at all meetings of the Board.

Two members shall be a quorum of the Board, and any action of the Board shall not be valid unless it shall have the concurrence of two members. A vacancy on the Board shall not impair the right of a quorum to exercise all the rights and perform all the duties of the Board.

Bureau of
Workmen's
Compensation.

Definitions.

Creation of the
Bureau.

Creation of the
Board.

Appointments.

The Commissioner.

Terms.

Vacancies.

Chairman.

Quorum.

**Attorney General
ex officio general
counsel.**

**Attorneys.
Salaries.**

**Workmen's com-
pensation districts.**

Referees.

Assignments.

Secretary.

**Sergeant-at-
arms.**

Blank forms.

**Notice to the
State Workmen's
Insurance Board of
accidents.**

**Rules and
regulations.**

Hearings.

Duties of Referees.

**Clerks.
Salaries.**

Section 5. The Attorney General shall ex officio be the general counsel of the Bureau. He shall appoint an attorney or attorneys, learned in the law, as counsel for the Bureau, whose salaries shall not in the aggregate exceed the sum of ten thousand dollars.

Section 6. It shall be the duty of the Board, immediately upon its organization, to divide the Commonwealth into districts to be known as workmen's compensation districts. Each district shall, as near as may be practicable, be compact and of contiguous territory.

Section 7. As soon as such districts shall have been created, the Commissioner, with the approval of the Governor, shall appoint as many Referees as shall be necessary to fulfil the purposes of this act, not to exceed ten in number.

Section 8. The Board may assign any Referee or Referees to any workmen's compensation district.

Section 9. The Board shall appoint a secretary to serve at its pleasure, who shall perform such duties as shall be imposed upon him by the Board.

Section 10. The Board shall appoint a sergeant-at-arms, who shall attend all hearings, preserve order thereat, superintend the serving of subpoenas and such other papers as the Board may direct, and perform such other duties as may be prescribed by the Board.

Section 11. It shall be the duty of the Bureau to publish such blank forms as will be useful in the administration of any workmen's compensation law now in force or hereafter to be enacted, to distribute the same to all employers, insurers, or employes applying therefor in person or by mail; and to perform such other duties as shall be required by law.

Section 12. It shall be the duty of the Bureau, if the State Workmen's Insurance Board shall file with it a written notice that any employer has become a subscriber to the State Workmen's Insurance Fund, promptly to transmit to the State Workmen's Insurance Board a copy of any notice received by such Bureau of any accident to any employe of such subscribing employer.

Section 13. It shall be the duty of the Board to make all proper and necessary rules and regulations for the conduct of the Bureau, and to promptly hear and determine all petitions and appeals, and to perform such other duties as shall be required by law.

Section 14. It shall be the duty of every Referee to hear such claims for compensation as shall be assigned to him by the Bureau, to perform such duties as shall be required of him by the Board, and to perform all other duties imposed by law.

Section 15. The Commissioner shall, with the approval of the Governor, appoint three clerks, whose salary shall not exceed two thousand dollars per an-

num, and not more than twenty-four clerks, one-half at least of whom shall be stenographers, at an annual salary not exceeding fourteen hundred dollars, to perform such duties in connection with the work of the Bureau as the Board shall direct. The Commissioner may also appoint, with the approval of the Governor, one clerk for each Referee, at an annual salary not to exceed one thousand dollars, and a messenger for the Bureau, at a salary not to exceed one thousand dollars per annum. The Commissioner may also, from time to time, detail to the assistance of the Bureau, the Board, or the Referees such other employes of the Department of Labor and Industry as may be necessary.

Section 16. It shall be the duty of the Commissioner to provide suitable places in the various workmen's compensation districts in which Referees may hold hearings. The Commissioner shall have the power, with the approval of the Board, to establish permanent offices for Referees in the various compensation districts.

The expenses of procuring places for hearings, and establishing permanent offices for Referees, shall be paid as other expenses of the Department of Labor and Industry are paid.

Section 17. The Board and every Referee shall have the power to conduct any investigation which may be deemed necessary to ascertain the facts of any claim or any other matter properly before such Board or Referee. Such investigations may be made by the Board or Referee, personally, or by any inspector of the Department of Labor and Industry, or by any other person or persons authorized by law. Every inspector of the said Department of Labor and Industry is hereby empowered and directed to conduct any investigation authorized by this act, at the request of the Board or any Referee, with the consent of the Commissioner.

Section 18. Every member of the Board and every Referee shall have the power to issue subpoenas, administer oaths, and summon witnesses at the request of either party to a petition, or of his own motion; and to require the attendance of witnesses, and the production of books and papers pertinent to any hearing, and to examine them and such public records as he may require in relation to any matter which he has power to investigate.

Any witness who refuses to obey a subpoena of a member of the Board or any Referee, or who refuses to be sworn or to testify, or who fails to produce any papers, books, or documents touching any matter under investigation, or who is guilty of any contempt after summons to appear, may be punished as for contempt of court; and for this purpose an application may be made to any court of common pleas within

Clerks for
Referees.

Salaries.

Messenger.

Salary.

Detail of
assistants.

Referees' offices.
etc.

Expenses.

Power to conduct
investigations.

Inspectors em-
powered to
investigate.

Subpoenas.
Oaths.

Production of
books and papers.

Refusal of
witness to testify.
etc.

Contempt.

Jurisdiction of court.

whose territorial jurisdiction the offense was committed, and for which purpose such court is hereby given jurisdiction.

No charges for oaths, certified copies of awards, etc.

The secretary of the Board and all Referees are hereby directed to administer any oaths required by this act, without charge, to the parties to any petition; and all certified copies of awards or disallowances of compensation, or modifications thereof, or of receipts for payments of compensation, shall be made by the Bureau or any Referee without charge.

Issue of subpoenas.

Section 19. All subpoenas issued by a member of the Board or by a Referee shall be signed by him or by the secretary of the Board, and may be served by any adult in any part of this Commonwealth.

Service.

Section 20. Each witness required to attend before the Board or any Referee shall receive for each day's attendance the sum of one dollar and fifty cents, and, in addition thereto, three cents for each mile circular traveled by such witness, by the usual route, from his home to the place where his presence is required. The fees for serving subpoenas shall be the same as those paid sheriffs for similar services. The fees, expenses, and costs of any hearing may be imposed by the Board upon either party, or may be divided between the parties in such proportions as the Board may determine.

Witness fees.

Section 21. Each member of the Board shall receive an annual salary of seven thousand dollars, except the chairman, who shall receive seven thousand five hundred dollars; the secretary shall receive an annual salary of four thousand dollars; the sergeant-at-arms shall receive an annual salary of one thousand five hundred dollars; each Referee shall receive an annual salary of two thousand five hundred dollars.

Mileage.

The salaries hereinbefore mentioned, and the salaries of all other officers, agents, appointees, and employes of the Bureau, shall be payable monthly.

Fees, expenses and cost.

Each member of the Board, its secretary, counsel, sergeant-at-arms, and other officers, agents, employes, and appointees, and each Referee, shall be paid, in addition to their stipulated salary or compensation, the railroad fare, board, lodging, and other traveling expenses necessarily and actually incurred by each of them in the performance of the duties required by this act or performed by direction of the Board.

Referee.

When payable.

Traveling expenses.

APPROVED—The 2d day of June, A. D. 1915.

MARTIN G. BRUMBAUGH.

The foregoing is a true and correct copy of the Act of the General Assembly No. 339.



Secretary of the Commonwealth.

No. 340.

AN ACT

Providing for the creation and administration of a State Fund for the insurance of compensation for injuries to employees of subscribers thereto; declaring false oaths by the subscribers to be misdemeanors; and providing penalties for the violation thereof.

Section 1. Be it enacted, &c., That the State Workmen's Insurance Board is hereinafter called the Board; the State Workmen's Insurance Fund is hereinafter called the Fund; and the Bureau of Workmen's Compensation of the Department of Labor and Industry is hereinafter called the Bureau.

Section 2. The State Workmen's Insurance Board is hereby created, consisting of the Commissioner of Labor and Industry, the Insurance Commissioner, and the State Treasurer.

Section 3. Certain sums to be paid by employers, as hereinafter provided, are hereby constituted a Fund, to be known as The State Workmen's Insurance Fund, for the purpose of insuring such employers against liability under article three of The Workmen's Compensation Act of 1915, and of assuring the payment of the compensation therein provided. Such Fund shall be administered by the Board, without liability on the part of the State, except as hereinafter provided, beyond the amount thereof, and shall be applied to the payment of such compensation.

Section 4. The State Treasurer shall be the custodian of the Fund; and all disbursements therefrom shall be paid by him, upon vouchers authorized by the Board and signed by any two members thereof, except as hereinafter provided in sections twenty-two and twenty-three. He may deposit any portion thereof not needed for immediate use as other State funds are lawfully deposited, and the interest thereon shall be collected by him and placed to the credit of the Fund.

Section 5. On or before the first day of October in each year, the said Board shall prepare and publish a schedule of premiums or rates of insurance for employers who shall have accepted article three of the Workmen's Compensation Act of 1915, which schedule shall be printed and distributed free of charge to such employers as shall make application therefor; and any such employer may, at his option, as hereinafter provided, pay to the Fund the amount of the premium appropriate to his business or domestic affairs, and, upon payment thereof, shall thereafter be considered a subscriber to the Fund, and shall be insured as hereinafter provided for the calendar year for which such

State Workmen's Insurance Board.
Definitions.

The Board created.

The State Workmen's Insurance Fund.

The State Treasurer custodian of the Fund.

Schedule of premiums.

Payment of premiums.

Subscribers.

premium is paid; and such insurance shall cover all payments becoming due in any year because of accidents occurring during the year for which said premium is paid.

Determination of amount of premiums.

Section 6. The said Board shall determine the amount of premiums which the subscribers to the Fund shall pay, and shall fix the premiums for insurance in accordance with the nature of their business and of the various employments of their employees, and the probable risk of injury to their employees therein. And they shall fix the premiums at such an amount as shall be adequate to enable them to pay all sums which may become due and payable to the employees of such subscribers, under the provisions of article three of the Workmen's Compensation Act of 1915; and to create and maintain the surplus provided in section nine of this act, and to provide an adequate reserve sufficient to carry all policies and claims to maturity. In fixing the premiums payable by any subscriber, the Board may take into account the condition of the plant, work-room, shop, farm, mine, quarry, operation, and all other property or premises of such subscriber, in respect to the safety of those employed therein, as shown by the report of any inspector appointed by the Board or by the Department of Labor and Industry; and they may, from time to time, change the amount of premiums payable by any of the subscribers, as circumstances may require and the condition of the plant, work-room, shop, farm, mine, quarry, operation, or other property or premises of such subscribers, in respect to the safety of their employees, may justify; and they may increase the premiums of any subscriber neglecting to provide safety devices required by law, or disobeying the rules or regulations made by the Board in accordance with the provisions of section fifteen of this act. The insurance of any subscriber shall not be effective until he shall have paid in full the premium so fixed and determined.

Conditions in respect to safety.

Increase or decrease of amount of premium.

Filing of list of subscribers.

Expenses of organization, etc.

Creation of a surplus.

Section 7. The Board shall file with the Workmen's Compensation Bureau of the Department of Labor and Industry a notice setting forth the names and places of business of those employers who, from time to time, shall become subscribers to the said Fund.

Section 8. The expenses of the organization and administration of the Fund shall, until the first day of July, one thousand nine hundred and nineteen, be paid by the State, out of funds hereinafter appropriated therefor.

Section 9. The Board shall set aside five per cent. of all premiums collected, for the creation of a surplus, until such surplus shall amount to one hundred thousand dollars; and thereafter they may set apart such percentage, not exceeding five per centum, as in

their discretion they may determine to be necessary to maintain such surplus sufficiently large to cover the catastrophe hazard of all the subscribers to the Fund, and to guarantee the solvency of the Fund.

Section 10. The said Board shall divide the subscribers into groups, in accordance with the nature of the business of such subscribers and the probable risk of injury therein, and they shall fix all premiums for each group in accordance with the experience thereof. Where the employes in any business are engaged in various employments in which the risk of injury is substantially different, the Board may subdivide the employments into classes, and shall fix the premium for each in accordance with the probable risk of injury therein.

Section 11. The Board shall keep an accurate account of the money paid in premiums by the subscribers and the disbursements on account of injuries to employes thereof, and if at the expiration of any year there shall be a balance remaining, after deducting such disbursements, the unearned premiums on undetermined risks, and the percentage of premiums paid or payable to create or maintain the surplus provided in section nine of this act, and after setting aside an adequate reserve, so much of the balance as the Board may determine to be safely distributable shall be distributed among the subscribers in proportion to the premiums paid by them; and the proportionate share of such subscribers as shall remain subscribers to the Fund shall be credited to the instalment of premium next due by them, and the proportionate share of such subscribers as shall have ceased to be subscribers in the Fund shall be refunded to them out of the Fund, in the manner hereafter provided.

Section 12. The said Board may invest any of the surplus or reserve belonging to the Fund in such securities and investments as are authorized for investment by savings banks. All such securities or evidence of indebtedness shall be placed in the hands of the State Treasurer, who shall be the custodian thereof. He shall collect the principal and interest thereof when due, and pay the same into the Fund. The State Treasurer shall pay all vouchers drawn on the Fund for the making of such investments, when signed by two members of the Board, upon delivery of such securities or evidences of indebtedness to him, when there is attached to such vouchers a certified copy of the resolution of the Board authorizing the investment. The said Board may, upon like resolution, sell any of such securities.

Section 13. The said Board shall have the power to make all contracts necessary for supplying medical, hospital, and surgical services, as provided in section three hundred and six, subsection (e), article three of the Workmen's Compensation Act of 1915.

Grouping of subscribers.

Classification of employment.

Balance.

Distribution of.

Investment of surplus or reserve.

Custodian.

Contracts for medical services, etc.

Reinsurance of risks.

Inspection of plant, etc.

Books, pay rolls, etc.

Inspectors and auditors.

Rules and regulations for prevention of injuries.

Application for insurance.

Details of the statements.

When classified.

Section 14. The said Board shall have the power to reinsurance any risk which they may deem necessary.

Section 15. The said Board shall be entitled to inspect the plant, work-room, shop, farm, mine, quarry, operation, and all other property or premises of any subscriber, and shall be entitled to examine from time to time the books, records, and payrolls of any subscriber or intending subscriber, for the purpose of determining the amount of the premium payable to such subscriber or intending subscriber; and they shall have the power to appoint such inspectors and auditors as may be necessary to carry out the powers given in this section; or they may, with the consent of the Department of Labor and Industry and Commissioner of Insurance, cause such inspection and examination to be made by the inspectors of the said Department of Labor and Industry and the auditors of the State Insurance Department, and such inspectors and auditors shall have free access to all such premises, books, records, and payrolls during the regular working and office hours.

The Board shall make reasonable rules and regulations for the prevention of injuries upon the premises of the subscribers; and they may refuse to insure, or may terminate the insurance of, any subscriber who refuses to permit such examinations or disregards such rules or regulations, and may forfeit one-half of the unearned premiums previously paid by him.

Section 16. Any employer who shall have accepted the provisions of article three of the Workmen's Compensation Act of 1915, and who shall desire to become a subscriber to the said Fund, for the purpose of insuring therein his liability to those of his employes, or any class thereof, who have accepted the said provisions, shall make a written application for such insurance to the said Board; in which application the applicant shall state, under oath or affirmation: (a) The nature of the business or domestic affairs in which insurance is desired; (b) the average number of employes expected to be employed in such business during the year for which insurance is sought, and the average number of employes, if any, engaged in such business during the previous calendar year; (c) the approximate money wages expected to be paid during the year for which insurance is sought, and the money wages paid to such employes during the preceding year; (d) the place where such business is to be transacted; (e) the place where the employer's payroll and books of accounts are kept, and where the employes are customarily paid, and such other facts and information as the Board shall require; and, when the employments are subdivided into classes, as provided in section ten of this act, the applicant shall further state, (f) the number of employes of each class

expected to be employed or previously employed, as aforesaid; (g) the approximate money wages expected to be paid or previously paid, as aforesaid, to employes of each class for which insurance is sought. Thereupon the Board shall make such investigations as they may deem necessary, and within thirty days after such application shall issue a certificate showing the classification or group in which such applicant is entitled to be placed, and the amount of premium payable by such applicant for the calendar year or the remainder of the calendar year for which insurance is sought. No insurance shall be issued for a longer period than a single calendar year.

Issuance of group certificate.

Section 17. All premiums shall be payable to the State Treasurer, who shall issue an appropriate receipt therefor; and such receipt, together with certificate of the Board specified in section sixteen hereof, shall be the evidence that the applicant has become a subscriber to the Fund and is insured therein.

Payment of premiums.

Receipt of State Treasurer.

Section 18. Each subscriber to said Fund shall, within one month after his subscription has terminated, furnish a written statement, under oath or affirmation, to the said Board, setting forth the maximum average and minimum number of employes insured in the Fund that such subscriber had employed during the preceding year, and the actual amount of the money payroll of such employes for such year; and setting forth, when the Board has subdivided the employments in any group into classes, as provided in section ten of this act, the number and actual amounts of the money payroll of such employes of each of such classes; and, thereupon, within thirty days, the said Board shall state the account of such subscriber for such calendar year, based on the facts thus proven, and shall render a copy of such statement to the subscriber; and, if the amount of the premium theretofore paid by such subscriber shall exceed the amount due according to such stated account, then the excess shall be forthwith refunded to the subscriber by payment out of the Fund in the manner hereinafter provided; and, if the amount shown by said statement exceed the amount of the premium theretofore paid by such subscriber, the excess shall be forthwith due and payable by the subscriber into the Fund, and until paid shall be a lien, as State taxes are a lien, upon the real and personal property of the subscriber; and, if unpaid, shall be collectible as State taxes are now collectible, with interest at the rate of twelve per centum per annum, commencing thirty days after service of the copy of said account, which service shall be by registered mail.

Statement of subscriber.

Contents.

Statement of account.

Refund.

Lien.

How collectible.

Section 19. Any person who shall falsely make oath or affirmation to any certificate, application, or

False oath or affirmation.

Misdemeanor.

Neglect to file statement.

Fine.

Filing of statement of knowledge or copy of notice of accident.

Discharge of liability.

Proviso.

Report of accident.

Supply of medical and surgical services, etc.

Reimbursement.

Defense against claims.

Right to sue or be sued.

Procedure.

statement herein required shall be guilty of a misdemeanor; and any subscriber who shall, after notice from the said Board, neglect or refuse to file the statement mentioned in section eighteen hereof, within ten days after such notice, shall be liable to pay to the Fund a penalty of ten dollars for each day that such neglect or refusal shall continue; to be recovered at the suit of the Fund.

Section 20. Any subscriber to the Fund who shall, within seven days after knowledge or notice of an accident to an employe in the course of his employment, as required by section three hundred and eleven of article three of The Workmen's Compensation Act of 1915, have filed with the Board a true statement of such knowledge, or a true copy of said notice, shall be discharged from all liability for the payment of compensation for the personal injury or death of such employe by such accident; and all such compensation due therefor, under article three of the Workmen's Compensation Act of 1915, shall be paid out of the Fund: Provided, however, That the report of such accident required by the act, entitled "An act requiring employers to make report to the Department of Labor and Industry of accidents to employes, and prescribing a penalty for non-compliance therewith," approved the nineteenth day of July, one thousand nine hundred and thirteen, shall be sufficient compliance with this section, if such report be made within said period of seven days and shall state that the employer making the same is a subscriber to the Fund:

Provided, That nothing in this section shall discharge any employer from the duty of supplying the medical and surgical services, medicines, and supplies required by section three hundred and six of The Workmen's Compensation Act of 1915: And provided further, That any subscriber who has supplied such services, medicines, and supplies shall be reimbursed therefor from the Fund.

Section 21. In every case where a claim is made against the Fund, the Fund shall be entitled to every defense against such claim that would have been open to the employer, and shall be subrogated to every right of the employer arising out of such accident against the employe, the dependents, and against third persons. The Fund may, in the name of The State Workmen's Insurance Fund, sue in any county of this Commonwealth, or be sued, in the court of common pleas of Dauphin county, to enforce any right given against or to any subscriber or other person under this act or The Workmen's Compensation Act of 1915; and the proceedings provided in article four of The Workmen's Compensation Act of 1915 may be instituted by or against the Fund, in the said name, to enforce, before

the Board of Workmen's Compensation or any Referee thereof, the rights given to or against the said Fund by The Workmen's Compensation Act of 1915.

Accident.

Investigation
by Inspector.

Execution of
agreement.

Rules.

Filing, etc.

Warrants.

Awards.

Filing, etc.

Warrants.

Payments.

Periodical pay-
ments.

Modifications.

Section 22. Upon receipt of a notice or statement of knowledge of an accident to an employe of a subscriber, occurring in the course of his employment, the said Board shall, if it deem necessary, cause an investigation to be made by an inspector appointed by it, or an inspector of the Department of Labor and Industry.

Section 23. The Board is hereby empowered to execute the agreements provided in the Workmen's Compensation Act of 1915, and to appoint such agents and make such rules as they may deem necessary for this purpose. When any such agreement has been approved by the Bureau, the same shall be properly filed and docketed, and the Board shall, from time to time, until such agreement shall be modified or terminated, as provided in the Workmen's Compensation Act of 1915, issue such warrant or warrants as may be necessary to pay the sums therein agreed upon. Such warrant or warrants shall be signed by a member of the said Board, or an agent appointed by the said Board for this purpose, and shall be mailed to the person or persons entitled thereto under such agreement. When any award is made by the Board of Workmen's Compensation, or by a Referee designated by the Bureau, in any proceedings brought by an employe of a subscriber or the dependents of such employe against the said Fund, such award shall be filed and docketed; and the State Workmen's Insurance Board shall, from time to time, until such award is modified, reversed, or terminated, issue such warrant or warrants as may be necessary to pay the sums therein lawfully awarded against the said Fund. Such warrant or warrants shall be signed by a member of the State Workmen's Insurance Board, or by an agent appointed by the Board for that purpose, and shall be mailed to the person or persons entitled thereto under such award.

Section 24. All payments to employes, dependents of deceased employes, physicians, attorneys, investigators, and others entitled to be paid out of the Fund, shall be made by the State Treasurer, on a warrant of the Board as aforesaid. But where periodical instalments are required to be paid, under article three of said Workmen's Compensation Act of 1915, a single warrant shall be sufficient to authorize such periodical payments. But, upon the modification of any agreement or award, in accordance with the provisions of article four, section four hundred and twenty-six of the Workmen's Compensation Act of 1915, or upon review by the court, the Board shall issue a further

Warrants.

warrant in accordance with such subsequent agreement or such modification, and such warrant when issued shall supersede and cancel the previous warrant.

Information not public.

Section 25. Information acquired by the Fund, its officers, and employes, from employers, employes, or insurance corporations or associations, shall not be open to public inspection.

Manager.

Salary.

Assistant manager.

Section 26. The Board may, with the approval of the Governor, appoint a manager, at a salary not to exceed seven thousand five hundred dollars; an assistant manager, at a salary not to exceed four thousand dollars; an actuary, at a salary not to exceed four thousand five hundred dollars; and may, with the approval of the Governor, appoint at salaries fixed by the Board, with the approval of the Governor, such underwriters, bookkeepers, comptrollers, auditors, inspectors, examiners, medical advisers, agents, assistants, and clerks as may be necessary for the proper administration of the Fund and the performance of the duties imposed upon the Board by the provisions of this act. The Commissioner of Labor and Industry shall include in his annual report a full and complete statement of the administration of the said Fund.

Salary.

Actuary.

Salary.

Underwriters.
Bookkeepers.
etc.

Report of the Commissioner.

Counsel.

Salaries.

Appropriation.

When act takes effect.

Section 27. The Attorney General shall ex officio be the general counsel of the Board. He shall appoint, at an annual salary or salaries to be fixed by him, not to exceed in the aggregate the sum of ten thousand dollars, an attorney or attorneys who shall act as counsel for the Board.

Section 28. The sum of three hundred thousand dollars, or so much thereof as may be necessary, is hereby appropriated for the expenses of the organization and administration of the said Fund.

Section 29. This act shall take effect on July first, one thousand nine hundred and fifteen.

APPROVED—The 2d day of June, A. D. 1915.

MARTIN G. BRUMBAUGH.

The foregoing is a true and correct copy of the Act of the General Assembly No. 340.



Secretary of the Commonwealth.

No. 341.

AN ACT

Regulating policies of insurance against liability arising under article three of the Workmen's Compensation Act of 1915; providing for the regulation of premium rates therefor; and providing penalties for the violation thereof.

Section 1. Be it enacted, &c., That no policy of insurance against liability arising under article three of the Workmen's Compensation Act of 1915 shall be made, unless the same shall contain the agreement of the insurer that, in the event of the failure of the insured promptly to pay any instalment of compensation insured against, the insurer will forthwith make such payments to the injured employe or the dependents of the deceased employe, and that the obligations shall not be affected by any default of the insured, after the accident, in the payment of premiums, or in the giving of any notices required by such policy, or otherwise. Such agreement shall be construed to be a direct promise to such injured employe and to such dependents, enforceable by action brought in the name of such injured employe or in the name of such dependents.

Policies of insurance against liability arising under Workmen's Compensation Act.

Agreement of the insurer.

Agreement construed.

Section 2. No suit shall be maintained for the collection of premiums upon any such policy of insurance, unless said covenant is contained in said policy.

Suit for collection of premiums.

Section 3. No policy of insurance against liability arising under said article of said act shall contain any limitation of the liability of the insurer to an amount less than that payable by the insured on account of the risk insured against under said article of said act; nor shall any such policy contain any limitation of the total liability of the insurer because of injuries to two or more persons in a single accident; nor shall any action be maintained for the collection of premiums on any policy violating this section; but policies may be issued to employers insuring them against their liability, under the said article, to any designated class or part of their employes, or against any particular hazard to which their employes or any class or part thereof may be exposed.

As to limitations in the policy.

Two or more injuries.

Violation of this section.

Policies issued to employers, etc.

Section 4. The State Workmen's Insurance Fund, and every insurance association and corporation which insures employers against liability for compensation under the Workmen's Compensation Act of 1915, shall

Filing of classification of risks and premiums.

file with the Commissioner of Insurance its classification of risks and premiums, together with basis rate and schedule or merit ratings, if a system of schedule or merit rating be in use; none of which shall take effect until the Commissioner of Insurance shall have approved the same as adequate for the risks to which they respectively apply. The Commissioner of Insurance may withdraw his approval of any premium rate or schedule made by the State Workmen's Insurance Fund, or any insurance corporation or association, if, in his judgment, such premium rate or schedule is inadequate to provide the necessary reserves. Such premium rates or system of schedule or merit rating shall take no account of any physical impairment of employes or the extent to which employes have persons dependent upon them for support.

Withdrawal of Commissioner's approval.

Physical impairment, etc.

Premium rates less than approved prohibited.

On and after January first, one thousand nine hundred and sixteen, neither the State Workmen's Insurance Fund nor any insurance association or corporation may issue, renew, or carry beyond anniversary date, any insurance for compensation under the Workmen's Compensation Act of 1915, at premium rates which are less than those approved by the Commissioner of Insurance for such carrier as adequate for the risks to which they respectively apply: Provided, however, That if the Commissioner of Insurance shall have previously approved a system of schedule or merit rating, filed with him by the State Workmen's Insurance Fund or any insurance association or corporation, it may apply the same to risks subject thereto; but any reduction from the basis rate filed with and approved by the Commissioner of Insurance, on account of the application of such system of schedule or merit rating, shall be clearly set forth in the insurance contracts or the indorsements attached thereto.

Proviso.

Approved system of schedule or merit rating.

Complied data.

The statistical and actuarial data compiled by the State Workmen's Insurance Fund shall at all times be available to the State Insurance Commissioner, for his use in judging the adequacy or inadequacy of rates and schedules filed, and it shall be the duty of the manager of the State Workmen's Insurance Fund to render all possible assistance to the State Insurance Department in carrying out the provisions of this act.

Sworn statement of loss experience.

The Commissioner of Insurance may require every insurance association or corporation, which insures employers or employes under the Workmen's Compensation Act of 1915, to file with its annual statement a sworn report of its loss experience, in such detail and form as may be prescribed by the Commissioner of Insurance.

The Commissioner of Insurance shall have the power Powers of Commissioner. to suspend or revoke the license of any insurance association or corporation which violates any of the provisions of this act.

Section 5. All acts and parts of acts inconsistent Repeal. herewith are hereby repealed.

APPROVED—The 2d day of June, A. D. 1915.

MARTIN G. BRUMBAUGH.

The foregoing is a true and correct copy of the Act of the General Assembly No. 341.



Secretary of the Commonwealth.

No. 342.

AN ACT

To provide for the incorporation and regulation of employers' mutual liability insurance associations, and for the licensing of foreign mutual liability insurance companies, and declaring the false oaths of officers thereof to be perjury.

Employers' Mutual Liability Insurance Associations.

Incorporation.

Proviso.

Agricultural employees.

Articles of association.

Statements.

Name.

Acknowledgment.

Certificate of Insurance Commissioner.

Letters patent.

List of subscribers.

Filing of list.

Section 1. Be it enacted, &c., That any twenty or more employers, who have in the aggregate not less than five thousand employees in the State of Pennsylvania, and who have accepted the provisions of article three of the Workmen's Compensation Act of 1915, may form an incorporated employers' mutual liability insurance association, for the purpose of insuring themselves, and such other employers as may become subscribers to the association, against liability under the terms of articles two and three of said act: Provided, however, That, in the case of associations engaged only in insurance of employers engaged in agriculture, the minimum number of employers shall be two hundred and the minimum number of employees shall be five hundred.

Section 2. The articles of association thereof shall state:—

- (a) The name of the association.
- (b) The place of its principal office.
- (c) The duration of the association.
- (d) The name and address of its treasurer.

Any name not in use by an existing association may be adopted, but must clearly designate the object and purpose of the association.

Section 3. The subscribers to said articles of agreement shall acknowledge the same before some person empowered to take acknowledgments of deeds, and forward the same in duplicate to the Commissioner of Insurance, who shall certify in duplicate to the Governor whether all of the requirements hereof have been complied with. Whereupon the Governor shall, in case he approves the application, indorse his approval thereon in duplicate, and cause letters patent to issue creating the subscribers and their associates a body corporate, under the name designated in said articles, but such association shall not engage in business until the further provisions of this act have been complied with.

Section 4. Such association shall not begin to issue policies until a list of the subscribers, with the number of employees of each, together with such other information as the Commissioner of Insurance may require, shall have been filed with the Insurance Department; nor until the president and secretary of the association

shall have certified under oath that every subscription in the list so filed is genuine, and made with an agreement of all the subscribers that they will take the policies subscribed for within thirty days of the granting of a license by the Commissioner of Insurance.

Certificate.

Section 5. Upon the filing of the certificate provided for in the preceding section the Commissioner of Insurance shall make such investigations as he may deem proper, and, if his findings warrant it, grant a license to the association to issue policies.

Filing of certificate.

Section 6. Charters under this act may be perpetual, or limited in time, as the articles of agreement shall specify.

License.

Section 7. Such association shall have the power to make by-laws for the government of its officers and the conduct of its affairs, and to alter and amend the same, and adopt a common seal.

Charters.

Section 8. The annual meeting for the election of directors shall be held at such time in the month of January as the by-laws of the association may direct. Of the time and place of said meeting at least thirty days' previous written or printed notice shall be given to the subscribers, or such notice may be given by publication, not less than three times, in at least two daily or weekly newspapers published in the city or county wherein the association has its principal office, and in the legal periodical, if any, designated by the rules of court of the proper county for the publication of legal notices. Subscribers who, during the preceding calendar year, have paid into the treasury of the association premiums amounting to more than one-half of the total premiums received by it during that year, shall constitute a quorum. At such annual meeting the subscribers shall elect by ballot, from their own number, not less than five directors, a majority of whom shall be residents of this Commonwealth, to serve for at least one year and until their successors are duly chosen: Provided, however, That such association may provide in its by-laws for the division of its board of directors into two, three, or four classes, and for the election thereof, at its annual meetings, in such manner that the members of one class only shall retire and their successors be chosen each year. Vacancies may be filled, by election by the board, until the next annual meeting. In the choice of directors, and in all meetings of the association, each subscriber shall be entitled to one vote for every one hundred dollars, or any fraction thereof, paid by him in premiums into the treasury of the association during the preceding calendar year. Subscribers may vote by proxy, and the record of all votes shall be made by the secretary, and shall show whether the same were cast in person or by proxy, and shall be evidence of all such elections. Not less than three directors shall

By-laws.

Seal.

Annual meeting.

Notice of meeting.

Publication.

Quorum.

Election of directors.

Terms.

Proviso.

Classification of directors.

Vacancies.

Basis of vote.

Proxies

Record of votes.

| | |
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| Quorum. | constitute a quorum. The directors shall annually choose by ballot a president, who shall be a member of the board; a secretary; a treasurer, who may also be either the president or secretary; and such other officers as the by-laws may provide; and they shall fix the salaries of the president and secretary, as well as the salaries or compensation of such other officers and agents as the by-laws prescribe. Vacancies in any office may be filled by the directors or by the subscribers, as the by-laws shall prescribe. |
| Officers of the board. | |
| Salaries. | |
| Vacancies. | |
| Policies. | Section 9. Policies of insurance issued by any such association may be made either with or without the seal thereof, and they shall be signed by the president, or such other officers as may be designated by the directors for that purpose, and attested by the secretary. |
| Attestation. | |
| Minimum number of employers and employees. | Section 10. If at any time the number of subscribers or the number of the subscribers' employees within the State falls below the minimum stated in section one hereof, no further policies shall be issued until the total number of subscribers and the total number of employees within the State are not less than such minimums. |
| Inspection of premises, etc. | Section 11. The board of directors shall be entitled to inspect the plant, work-room, shop, farm, or premises of any subscriber, and for such purpose to appoint inspectors, who shall have free access to all such premises during the regular working hours; and the board of directors shall likewise, from time to time, be entitled to examine by their auditor or other agent the books, records, and payrolls of any subscriber, for the purposes of determining the amount of premium chargeable to such subscriber. |
| Books, records, etc. | |
| Rules and regulations for prevention of injuries. | Section 12. Every subscriber to such association shall be under a contingent mutual liability for the payment of losses and expenses in excess of the cash funds of the association to an amount equal to the premium paid by him during the current year. |
| Termination of insurance. | Section 13. The board of directors shall determine the amount of the premiums which the subscribers of the association shall pay for their insurance, in accordance with the nature of the business in which such subscribers are engaged, and the probable risk of in- |
| Contingent mutual liability. | |
| Determination of amount of premiums. | |

jury to their employes under existing conditions; and they shall fix premiums at such amounts as, in their judgment, subject to the approval of the Commissioner of Insurance, shall be sufficient to enable the association to create and maintain the surplus provided in section fourteen of this act, and to pay to its subscribers all sums which may become due and payable to their employes under the provisions of said article three of said act, and also the expenses of conducting the business of the association. In fixing the premium payable by any subscriber, the board of directors may take into account the condition of the plant, work-room, shop, farm, mines, quarry, operation, and all other property or premises of such subscriber, in respect to the safety of those employed therein, as shown by the report of any inspector appointed by such board; and they may, from time to time, change the amount of premiums payable by any of the subscribers as circumstances may require, and the condition of the plant, work-room, shop, farm, mines, quarry, operation, and all other property or premises of such subscriber, in respect to the safety of their employes, may justify; and they may increase the premiums of any subscriber neglecting to provide safety devices required by law, or disobeying the rules or regulations made by the board of directors, in accordance with the provisions of section eleven of this act. No policy of insurance issued to any subscriber shall be effective until he shall have paid the premium so fixed and determined.

To meet requirements.

Condition of plant, etc., to be taken into account.

Change in amount of premiums.

Payment of premiums.

Surplus.

Assessment of subscribers.

Dividends.

Reserve.

Section 14. The board may set aside such part of all premiums collected as it may deem necessary for the creation of an adequate surplus to cover the catastrophe hazard of all the subscribers to such fund and to guarantee the solvency of the fund.

Section 15. If the association be not possessed of cash funds, over and above its unearned premiums on undetermined risks, sufficient for the payment of incurred losses and expenses, it shall make an assessment for the amount needed to pay such losses and expenses upon the subscribers liable to assessment therefor, in proportion to their several liabilities.

Section 16. The board of directors may, from time to time, fix and determine the amount to be paid as dividends upon policies expiring each year, after retaining the unearned premiums upon undetermined risks, and sufficient sums to pay all the compensation then payable or which may become payable on account of injuries theretofore received by employes of the subscribers, and to pay the expenses incurred in the operation of the business of the association, and such percentage of the premiums as have been paid or are payable to create and maintain the surplus provided in section fourteen.

Grouping of subscribers.

Section 17. The board of directors may divide the subscribers into groups, in accordance with the nature of their business and the probable risks of injury therein. In such case they shall fix all premiums for each business in such group, and for the various classes of employments therein, in accordance with the probable risks of injury to the employes in such business and in each class of employment therein; and they shall make all assessments, and determine and pay all dividends, by and for each group in accordance with the experience thereof; but all funds of the association and the contingent liability of all the subscribers shall be available for the payment of any claim against the association: Provided however, That (as between the association and its subscribers), until the whole of the contingent liability of the members of any group shall be exhausted, the general funds of the association and the contingent liability of the members of other groups shall not be available for the payment of losses and expenses incurred by such group in excess of the earned premiums paid by the members thereof.

Approval of Insurance Commissioner.

Section 18. A statement of any proposed premium, assessment, dividend, or distribution of subscribers into groups, shall be filed with the Insurance Department, and shall not take effect until approved by the Commissioner of Insurance.

False oaths.

Section 19. If any officer of the association shall falsely make oath to any certificate required to be filed with the Commissioner of Insurance, he shall be guilty of perjury.

Perjury.

Withdrawal from the association.

Section 20. Any subscriber of the association who has complied with all of its rules and regulations may withdraw therefrom by written notice to that effect, sent by such subscriber by registered mail to the association; and such withdrawal shall become effective on the first day of the month immediately following the tenth day after the receipt of such notice; but such withdrawal shall not release such subscriber from liability for the payment of assessments thereafter made by the board of directors to make up deficiencies existing at the date of his withdrawal, and such subscriber shall be entitled to his share of any dividend earned at the date of his withdrawal.

In case of deficiency.

Section 21. If the Commissioner of Insurance shall find that more than fifty per centum of the contingent liability of all the subscribers is required to pay accrued losses, after charging against the funds in hand the unearned premiums on undetermined risks, no further insurance shall be issued until the subscribers have made good such deficiency.

Section 22. Such association shall invest and keep invested all its funds of every description, excepting such cash as may be required in the transaction of its business, as follows:—

Investment of funds.

First. In such real estate as it is authorized to hold by section twenty-three of this act.

Second. In bonds of the United States or the District of Columbia, or of any State or territory of the United States.

Third. In the legally authorized bonds or notes of any city, county, township, municipality, school or water district of this Commonwealth, or of any other State or territory of the United States or Canada.

Fourth. In the bonds of any solvent railroad or street railway corporation, upon which no default in interest has been made.

Fifth. In loans upon improved and unencumbered real estate: Provided, That no loan on such real estate shall exceed sixty-six and two-thirds per centum of the fair market value thereof at the time of making such loan.

Section 23. No such association shall purchase, hold, or convey real estate, except for the purpose and in the manner herein set forth, to wit:—

Purchase and conveyance of real estate.

First. Such as shall be requisite for its convenient accommodation in the transaction of its business.

Second. Such as shall have been mortgaged to it to secure loans previously contracted, or for moneys due.

Third. Such as shall have been conveyed to it in satisfaction of debts.

Fourth. Such as shall have been purchased at sales upon judgment, decrees, or mortgages obtained or made for debts due the association, or for debts due other persons, where said association may have liens or encumbrances on the same.

Any real estate purchased under the second, third, or fourth paragraphs of this section, which has been held for a period of more than five years from the date of its purchase, shall be sold and disposed of within a period of six months after notice to the association from the Insurance Commission to sell and convey the same: Provided, however, That the commissioner may extend the time for such disposition if he believes the interest of the association will suffer materially by a forced sale.

Sale of real estate.

Section 24. A mutual liability insurance company of another State may be licensed to transact business in this State, when it has a surplus over all liabilities, including unearned premiums, of not less than fifty

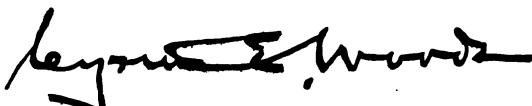
License of Foreign Mutual Liability Insurance Companies.

thousand dollars (\$50,000.00), upon compliance with such provisions of this act and of the general laws of this Commonwealth as may be applicable thereto.

APPROVED—The 2d day of June, A. D. 1915.

MARTIN G. BRUMBAUGH.

The foregoing is a true and correct copy of the Act of the General Assembly No. 342.



Secretary of the Commonwealth.

No. 343.

A SUPPLEMENT

**To an act, entitled "The Workmen's Compensation Act of 1915,"
to exempt domestic servants and agricultural workers from the
provisions thereof.**

**Section 1. Be it enacted, &c., That nothing contained
in any article or any section of an act, entitled the
Workmen's Compensation Act of 1915, shall apply to
or in any way affect any person who, at the time of
injury, is engaged in domestic service or agriculture.**

Workmen's Compensation Act.

Exemption of
domestic servants
and agricultural
workers.

APPROVED—The 3d day of June, A. D. 1915.

MARTIN G. BRUMBAUGH.

**The foregoing is a true and correct copy of the Act
of the General Assembly No. 343.**



Secretary of the Commonwealth.

ACT No. 408, P. L. of 1913, P. 843.

AN ACT.

Requiring employers to make report to the Department of Labor and Industry of accidents to employes, and prescribing a penalty for non-compliance therewith.

SECTION 1. *Be it enacted, etc.*, That within thirty days after the beginning of the disability of an employe because of any personal injury, caused by an accident occurring in the course of his employment, the employer, whether a person, firm, or corporation, shall make report of such accident to the Department of Labor and Industry. Such report shall set forth the name, address, and nature of the business of the employer; name, address, sex, age, nationality, and occupation of the employe; date, day of week, hour, place, and character of the accident, and the nature of the injury, and the duration of the disability, as far as the same can be ascertained. Such employer shall, also, upon request of the Department of Labor and Industry, make such further report as may reasonably be required by it.

SECTION 2. Any person, firm, or corporation having knowledge of the occurrence of such personal injury to an employe, in the course of employment, who shall fail to make a report as aforesaid, shall be liable to the Commonwealth for a penalty of one hundred dollars to be recovered by action brought by said department.

SECTION 3. Reports made in accordance with this act shall not be evidence against the employer in any proceeding, either under the Workmen's Compensation Law of one thousand nine hundred and thirteen or otherwise.

SECTION 4. No employer who has made the report required by this act shall be required to make any other or further report of such accident to any other department of the government of the Commonwealth.

SECTION 5. This act shall not apply to casual employments; nor to accidents resulting in disability continuing less than two days.

Approved the 19th day of July, A. D. 1913.

[Signed] JOHN K. TENER.

APPENDIX

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APPENDIX.

RULES AND INSTRUCTIONS FOR THE EXECUTION OF COMPENSATION AGREEMENTS.

I. Agreements for Disability.

No agreement is necessary unless the disability resulting from the accident lasts more than fourteen days or the employer has failed to provide the surgical, medical, and hospital services required by Section 306(e) and has thus compelled the injured employe to obtain them at his own expense.

In computing the time when the disability becomes compensable, the day upon which the accident occurs is to be considered one of the fourteen days. Thus, if an accident occurs at any hour on Monday, January 3, 1916, the right to compensation begins on Monday, January 17, 1916.

Compensation Agreements, as provided in Section 411, must be executed (substantially as provided in Form W 14) whenever the disability continues for more than fourteen days. No receipt for compensation from an employe will be approved as a discharge of the liability created by Article III, unless such an agreement has been mailed or delivered to the Board and approved by it.

When after the first fourteen days of disability, there appears a reasonable prospect that the disability will terminate within a further period of fourteen days, no agreement need be executed until the disability has terminated or the further period of fourteen days has expired. An agreement showing that the disability has terminated together with the receipt (substantially as provided in Form W 51), showing that the agreed compensation has been paid, will close the case, subject however to its being re-opened by a new agreement or award, if at some later time an unexpected return of disability should result from the injury.

When the accident has caused the loss of a hand, foot, arm, leg or eye or the use thereof, an agreement should be made, immediately after the expiration of the first fourteen days, for the payment of compensation for the number of weeks appropriate to the particular dismemberment under Section 306(c).

When the disability is one of uncertain duration, an agreement should be made not more than four weeks after the disability begins. This agreement must fix the compensation to be paid for disability up to the date thereof. The future compensation may be provided for in one of three ways:

First: A new agreement may be made on each succeeding pay-day providing for the compensation then due.

Second: The agreement may provide for the payment of compensation for a further definite period during which it is estimated that such disability is certain to continue.

Third: It may provide that compensation shall be paid during the full 500 weeks, when the disability is total, or 300 weeks, when it is partial, "or so long as the disability continues unchanged."

While the first two methods may be used with advantage when there is a reasonable prospect of a speedy recovery of earning power, they are inappropriate if the disability appears likely to last any considerable time, since they would require the constant execution of supplemental agreements. In such case, the third method is strongly recommended. When an agreement has been executed or an award made providing for or ordering the payment of compensation "so long as the disability continues unchanged," a supplemental agreement (substantially as provided in Form W 14 a) should be executed, terminating or modifying the agreement or award, if the employe dies, returns to work or if his disability has terminated, diminished or increased in any other way.

If the employe or his dependents, in case of death, refuse to execute such an agreement when his disability has diminished or ceased or if the employer should refuse to do so when the employe's disability has increased, a petition can be presented to the Board under Section 426, (substantially as provided in Form W 35) praying it to order the agreement or award modified or terminated. And the filing of such a petition will suspend, until the petition be granted or refused, the payment of compensation to such an extent as the facts alleged therein would, if proved, require.

If any employe, entitled to compensation for disability under an agreement or award, dies as a result of his injury, an agreement (substantially as provided in Form W 15) should be immediately made with the dependent, dependents or personal representative of such employe. Such an agreement, stating as it must the date of the employe's death, will of its own force and without any further agreement, terminate the disability agreement as of the date of such death.

II. Agreements for Death Compensation.

When the accident causes death, without any intervening period during which disability compensation is payable to the employe killed, an agreement (substantially as provided in Form W 15) should be executed between the employer and the dependent, dependents or personal representative.

In many cases the amount of the death compensation will not vary during the period in which it is payable, unless one or more

of the dependents die or remarry. Thus if the deceased employe leaves only a widow or a widow and children, all under ten years of age, she will be entitled to the same percentage of her husband's wages from the beginning to the end of the three hundred weeks during which death compensation is payable, unless she remarry or she, or one or more of her children, die.

On the other hand, there will be many cases when the percentage of wages payable as death compensation is certain to diminish from time to time, as children the age of 16. Thus, if a widow be left with four children, aged respectively 11, 12 $\frac{1}{2}$, 14 and 15 $\frac{1}{2}$ years, she will be entitled to 60% of her deceased husband's wages for the first six months, to 55% for the next eighteen months, to 50% for the next eighteen months, to 45% for the next eighteen months and finally to only 40% for the last forty weeks of the full compensation period of three hundred weeks. The last paragraph of the Compensation Agreement for Death prepared by the Board (Form W 15) is designed for use in such a case. By using it, the varying compensation, payable under these changing conditions, can be agreed upon in one agreement so saving the annoyance and inconvenience of making a new agreement every time a child, brother or sister reaches the age of sixteen.

When, after an agreement has been executed or award made for death compensation, a widow remarries or a child, brother or sister dies, thus unexpectedly changing the amount of compensation of the person to whom it is to be paid, a supplemental agreement, (substantially as provided in Form W 15 a) should be executed.

If the widow upon remarriage, or the personal representative of a deceased person, who was the only dependent, or the remaining dependents, where there were several dependents, shall refuse to execute such a supplemental agreement as the facts require, a petition can be presented to the Board under Section 426 (substantially as provided in Form W 36) praying it to modify or terminate the Compensation Agreement or Award, and the filing of such a petition will, until the petition be granted or refused, suspend the payment of compensation to such an extent as the facts alleged therein would if proved, require.

RULES OF PROCEDURE.

1. All Agreements, Claim and other Petitions, and Answers must be substantially in accordance with the forms prepared by the Board. Copies of these forms may be obtained by application to the Workmen's Compensation Bureau, Harrisburg, Penna.

2. If the facts agreed upon in a Compensation Agreement differ materially from the facts stated in the Report of the Accident and

the reports supplemental thereto made to the Department of Labor and Industry, the Agreement will not be approved until the discrepancy is explained to the satisfaction of the Board.

3. Any Claim Petition, which does not contain the information required by Forms W 18 and W 19, will not be assigned to a Referee for hearing, but will be returned to the claimant with a request that he shall supply the information not given.

Petitions and Answers.

1. All Claim Petitions and other petitions, which allege facts as the ground for the relief prayed for by them, and all answers to petitions must be subscribed and sworn to or affirmed before a Compensation Referee, Notary Public, or other person authorized to administer oaths.

2. When a petition to the Board alleges facts as the ground for the relief prayed for therein, the adverse party must file an answer (substantially in accordance with Forms W 38, W 39, W 40) and any fact alleged in the petition, which is not denied by the answer, will be deemed to be admitted.

3. All Compensation Referees shall administer oaths free of charge and shall, when requested to do so, assist all parties in drawing claim petitions, answers and all other papers necessary for the administration of the Workmen's Compensation Act.

PROCEEDINGS BEFORE REFEREES.

Duties of a Referee Before a Hearing.

1. When a Claim Petition is referred to a Referee, he should endeavor to bring the parties to an understanding and to induce them to settle the claim, without further litigation, by an appropriate Compensation Agreement.

2. Whenever the facts stated in a Claim Petition differ materially from those stated in the Report of the Accident and the reports supplemental thereto made to the Department of Labor and Industry, the Referee shall make an investigation in person or by an Inspector of the Department of Labor and Industry.

3. The Referee shall make an investigation in person or by an Inspector of the Department of Labor and Industry whenever he is of the opinion that such investigation will be of material assistance in determining the matter of fact put in issue by any petition and answer.

4. Whenever the evidence at a hearing is conflicting or insufficient, the Referee may continue the hearing and make an investigation in person or by an Inspector of the Department of Labor and Industry.

5. Where any medical fact is put in issue by a petition and answer the Referee shall apply to the Board, as provided in Section 417, for power to appoint an impartial physician or physicians to examine the physical condition of the petitioner or defendant to the petition and report thereon.

6. When a Claim Petition has been referred to a Referee and the only fact denied in the answer is one which can be more conveniently investigated in another district, the petition may be transferred through the Bureau to the Referee of such other district.

7. When one of the allegations denied in an answer to a Claim Petition is the disability of an employe or the status of a dependent, this question may be referred through the Bureau by the Referee to whom the petition is assigned, to the Referee of any district in which the question can be more conveniently investigated, whose finding thereon when made to the original Referee shall be of the same effect as a finding of the original Referee.

Hearings.

1. The Referee shall hold each hearing at the place, within his district, most convenient to all parties concerned.

2. All hearings before the Board or a Referee shall be open to the public.

3. The object of all hearings is to ascertain the truth of the matter in dispute. The Referee shall see to it that the testimony is fully presented and to that end may examine and cross-examine witnesses.

4. The Referee shall require that both parties and Counsel shall treat all witnesses fairly and courteously.

5. When either a claimant or defendant is not represented by counsel, the Referee shall advise him as to his rights, aid him in examining witnesses and give him all assistance which is compatible with the judicial position of the Referee.

Burden of Proof.

1. The party, who alleges in his petition or answer any fact, not admitted by the pleadings and not ascertained by an investigation made or ordered by the Referee, must produce evidence to prove it.

2. The burden rests upon the claimant or petitioner to establish by a preponderance of probability, upon all the facts proved by the evidence or ascertained by the Referee's investigation, his right to compensation and its amount or his right to such other relief as his petition prays for.

Evidence.

1. The statement of any person, having personal knowledge of any material fact, who is dead or whose testimony before a Referee or by deposition cannot be conveniently obtained, may be received in evidence if the circumstances, under which it was made, are such as to convince the Referee that it is trustworthy.
2. Any conduct or act which shows a fixed habit, or reasonably constant tendency, on the part of any person to act or not to act in a particular way, shall be admitted in evidence to prove that such an act was or was not done by such person on the occasion in question.
3. No physician's certificate shall be admitted as evidence of any controverted medical fact, unless such physician be dead or otherwise unable to testify before the Referee of any district of this Commonwealth or to make a deposition.
4. If a witness resides in a district, other than that to which the Claim Petition is assigned or the question of fact referred, the Referee may order his or her testimony to be taken before the Referee of the District in which the witness resides.
5. No deposition shall be admitted, except by express agreement of the parties, unless the witness resides outside the Commonwealth or it is shown that by reason of illness or other cause, the witness can not give his or her testimony before the Referee of any district of this Commonwealth.
6. If the Referee has made a personal investigation he shall state at the hearing any facts, observed by him, upon which he intends to rely and he shall, if requested by either party, grant a continuance to enable such party to produce evidence to challenge the accuracy of his observation.
7. If a Referee intends to rely upon any statement made to him during a personal investigation, he shall state at the hearing the substance of the statement and the name of his informant, and shall offer to continue the hearing in order that his informant may, if either party so request, be produced as a witness for examination and cross examination. The failure to request such continuance shall be a waiver of all right to the production, examination and cross examination of such informant.
8. Whenever the Referee intends to rely upon the report of any physician, or of any inspector of the Department of Labor and Industry, or any other expert, appointed or employed by him under Section 417, he shall, whenever possible, offer to the parties an opportunity to read such report, or, if this be impossible, shall notify them that he intends to rely on the report of such physician, inspector or expert, giving the name of the physician, inspector or expert and the matter entrusted to him for investigation and notify-

ing the parties that he will admit such report in evidence without requiring the physician, inspector, or expert to attend the hearing, unless one or both of the parties shall make a request in writing that such physician or expert be produced at the hearing for examination or cross examination. The failure to request the production of such physician, inspector, or expert shall be a waiver of any right of examination and cross examination.

Referees Award.

The Referee's Award or Disallowance of Compensation shall be made upon Form W 24, in the following order:

1. Title of case and number of claim petition.
2. Date and place of hearing.
3. Names of parties, their counsel and witnesses.
4. A brief statement of material testimony.
5. Findings of fact.
6. Conclusions of law.
7. Award, citing section and clause of the Act upon which the award is based, or giving in full reasons for disallowing compensation.

References on Questions of Facts Arising out of Petitions to the Board.

1. When the answer to a petition to the Board denies a fact or facts alleged in the petition or alleges additional facts, not stated in the petition, the Board may refer such fact or facts to the Referee or Referees of the district or districts in which such fact or facts can be most conveniently investigated.
2. In such case the Referee, to whom the question is referred, shall fix a time and place of hearing and shall give notice thereof to all parties in interest.
3. Where a question of fact arises under a petition and answer as to a change in the disability of an employe or the status of a dependent, it will be referred to the Referee of that district in which the employe or dependent resides or resided.

Appeals and Petitions for the Termination or Modification of Agreements and Awards.

1. An appeal taken by the State Workmen's Insurance Fund or by an employer, who has complied with Section 305, will operate as a supersedeas and will suspend the payments ordered by the Award appealed from, in whole or in such part as the appeal, if sustained, would require. An appeal by an employer who has not complied with Section 305 will not operate as a supersedeas, unless such employer

shall file a satisfactory bond in an amount sufficient to secure the payment of the compensation, due under the award at the date of the appeal and the compensation which may accrue during the pendency of the appeal.

2. The filing of a petition to terminate or modify a compensation Agreement or Award, as provided in Section 426, will operate as a supersedeas and will suspend the payment of compensation fixed in the agreement or by the award, in whole or in such part as the facts alleged in the petition would, if proved, require.

RULINGS OF THE WORKMEN'S COMPENSATION BOARD.

1. The notice required by Section 302(a) notifying the employee of the employer's refusal to accept Article III, of the Compensation Act of 1915, must be personally served upon each employee by furnishing him with a copy of the same, and by informing him of its contents in a language understood by him.

2. No certified copy of any agreement or claim petition will be issued, for the purpose of filing a lien as provided for in Section 429 of the Workmen's Compensation Act of 1915, when the employer is insured in the State Fund and has given notice of an accident within seven days after its occurrence.

3. The Commonwealth and all counties, cities, boroughs, townships, school districts and other governmental authorities created by the laws of this Commonwealth and having the right to levy taxes, shall be exempt from insuring their liability upon application to the Workmen's Compensation Board.

4. All information given by persons, companies, or corporations applying for exemption from insuring shall be considered strictly confidential and nothing contained therein shall be disclosed by any employees or attaches of this office or used for purposes of taxation.

5. All persons appointed by and on the pay-roll of the Commonwealth or of a county, city, borough, township, school board or other governmental sub-division of the Commonwealth are employees of the Commonwealth or of such county, city, borough, township, school board or other governmental sub-division of the Commonwealth for the purpose of compensation.

6. An ordinary private chauffeur while acting as such is engaged in domestic service within the meaning of the Supplement No. 343, 1915, and is therefore, not covered by the Workmen's Compensation Act of 1915.

7. Charitable corporations, colleges, hospitals, etc., being corporations not for profit, are employers within the meaning of the Workmen's Compensation Act of 1915 and if they do not give to their employees the notices provided in Section 302 are liable for compensation under Article III of said Act.

The Board declines to give a ruling as to the liability under Article II of a charitable corporation which rejects Article III, as this question is one for the determination of the Courts and not for the Board.

8. A non-resident alien woman claiming compensation as a dependent widow, may prove her marriage by the official record of the civil marriage or by the church record of a religious marriage.

9. In all cases in which applications for exemption from carrying insurance are made, the applicants will be required to answer the following question: State whether or not it will be your policy to discriminate against any class of employees for the purpose of reducing your liability under the Workmen's Compensation Act of 1915.

10. The term "domestic service" applies only to service in a private home and does not apply to service in a hotel, hospital or other institution.

11. Those engaged in the business of fruit growing, poultry and stock raising, dairying and horticulture, as a business and not merely as incidental to general farming, come under the Workmen's Compensation Act of 1915 and are not exempted by Act 343 of June 3, 1915, which is a supplement to the said Act.

12. It is contrary both to the letter and the spirit of the Workmen's Compensation Act of 1915, for an employer to levy contributions upon his employees, by reducing their wages or otherwise, for the purpose of meeting his liability under the Act.

13. Elective officers of the Commonwealth or of a county, city or any other governmental authority created by the laws of this Commonwealth; and persons paid by the Commonwealth, county, city or other governmental authority for services rendered occasionally in the administration of governmental affairs, such as jurymen, witnesses and viewers, are not employees within the meaning of the Workmen's Compensation Act of 1915.

All appointive officers and subordinates who are paid by the Commonwealth or by any county, city, or other governmental authority, and all other persons performing services for the Commonwealth or other governmental agencies created by it, or for any municipal subdivision thereof, under a contract of hiring, are employees of the said Commonwealth, county, city or other governmental authority within the meaning of the Act.

14. The owner of a threshing machine, doing work on a farm not his own, for hire, is liable to his engineer and those helpers whom he employs to run the machine. The same ruling shall apply to the owner of an ensilage cutter or any similar machine.

LIST OF FORMS.

Form W 1 —Employer's Notice to his Employe of his Rejection of Article III of the Workmen's Compensation Act of 1915.

Form W 2 —Notice to Laborers and Assistants not directly employed by the Principal Employer of his Rejection of Article III of the Workmen's Compensation Act of 1915.

Form W 3 —Notice to Employer of Employe or Laborer's Rejection of Article III of the Workmen's Compensation Act of 1915.

Form W 4 —Employer's Notice of Termination of Rejection or Acceptance of Article III of the Workmen's Compensation Act of 1915.

Form W 5 —Employer's Notice to Laborers and Assistants of Termination of Rejection or Acceptance of Article III of the Workmen's Compensation Act of 1915.

Form W 6 —Employe's Notice of Termination of Rejection or Acceptance of Article III of the Workmen's Compensation Act of 1915.

Form W 7 —Proof of Service of Employer's Notice of his Rejection or Termination of his Rejection or Acceptance of Article III of the Workmen's Compensation Act of 1915.

Form W 7 a —Proof of Service of Employer's Notice to his Employe in Manner Permitted by Special Order of the Board.

Form W 8 —Proof of Posting Notice to Laborers and Assistants hired by an Employe or Contractor of the Principal Employer's Rejection or Termination of his Rejection or Acceptance of Article III of the Workmen's Compensation Act of 1915.

Form W 9 —Notice of Proof of Service of Employe's Rejection or Termination of his Rejection or Acceptance of Article III of the Workmen's Compensation Act of 1915.

Form W 10 —Employer's Application for the Privilege of Paying Compensation Provided in Article III of the Workmen's Compensation Act of 1915, without Insurance.

Form W 11 —Order of the Workmen's Compensation Board of Pennsylvania Exempting an Employer subject to Article III of the Workmen's Compensation Act of 1915 from Insuring his Liability to Pay Compensation Thereunder.

Form W 12 —Notice of Conditional Acceptance of Employer's Application for Exemption from Insurance.

Form W 13 —Employer's Proof of Insurance under Article III of the Workmen's Compensation Act of 1915.

Form W 14 —Agreement for Compensation for Disability.

Form W 14 a—Supplemental Agreement for Termination or Modification of a Compensation Agreement or Award for Disability.

Form W 15—Agreement for Compensation for Death.

Form W 15 a—Supplemental Agreement Terminating or Modifying an Agreement as to or an Award of Compensation for Death.

Form W 16—Approval of Compensation Agreement.

Form W 17—Disapproval of Compensation Agreement.

Form W 18—Employe's Claim Petition for Compensation for Disability.

Form W 19—Claim Petition for Compensation by Dependents of Deceased Employe.

Form W 20—Assignment of Claim Petition to Referee.

Form W 21—Notice to Defendant of Claim Petition.

Form W 22—Defendant's Answer to Claim Petition.

Form W 23—Referee's Notice of Hearing.

Form W 24—Referee's Award or Disallowance of Compensation.

Form W 25—Appeal from Referee Alleging Error of Law.

Form W 26—Appeal from Referee's Findings of Fact.

Form W 27—Appeal from Referee on the Ground of Fraud, Coercion, or other Improper Conduct of a Party in Interest.

Form W 28—Notice of Hearing of Appeal.

Form W 29—Notice of Hearing of the Case De Novo.

Form W 30—Petition to the Board for the Determination of Compensation for Disability under Facts agreed upon by the Parties.

Form W 31—Petition to the Workmen's Compensation Board to Determine the Compensation Payable under Agreed Facts to the Dependents of Deceased Employe.

Form W 32—Petition for Review of Compensation Agreement.

Form W 33—Petition by Employer for Commutation of Compensation.

Form W 34—Petition by Employe or Dependents for Commutation of Compensation.

Form W 35—Petition for Termination or Modification of Agreement or Award on Ground of Changed Disability.

Form W 36—Petition by Employer for Modification or Termination of a Compensation Agreement or Award on the Ground of Change in the Status of the Dependent or Dependents of a Deceased Employe.

Form W 37 —Notice of the Filing of a Petition for the Review of an Agreement, the Termination or Modification of an Award or an Agreement, or the Commutation of Compensation due under an Award or Agreement, and of the Time and Place of Hearing thereof.

Form W 38 —Answer to Petition for the Review of a Compensation Agreement.

Form W 39 —Answer to Petition for the Commutation of Compensation Payable under an Agreement or Award.

Form W 40 —Answer to Petition for the Modification or Termination of a Compensation Agreement or Award.

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Form W 54 —Employer's Notice to Employes of Exemption from Carrying Insurance.

WORKMEN'S COMPENSATION DISTRICTS.

District No. 1—Philadelphia, Delaware, Chester, Montgomery and Bucks Counties. Referees: W. B. Scott, George C. Klauder, North American Building, Philadelphia.

District No. 2—Berks, Schuylkill, Lehigh, Northampton, and Carbon Counties. Referee: Paul W. Houck, Ulmer Building, 207 N. Center Street, Pottsville.

District No. 3—Montour, Columbia, Luzerne, Monroe, Pike, Wayne, Lackawanna, Susquehanna and Wyoming Counties. Referee: George W. Beemer, Union Nat'l Bank Building, Scranton.

District No. 4—Dauphin, Lebanon, Lancaster, York, Adams, Franklin, Cumberland and Perry Counties. Referee: E. K. Saylor, Woolworth Building, Lancaster.

District No. 5—Tioga, Lycoming, Bradford, Sullivan, Union, Snyder, Potter, Northumberland, Centre, Clearfield, Clinton and Cameron Counties. Referee: W. W. Champion, First Nat'l Bank Building, Williamsport.

District No. 6—Cambria, Blair, Huntingdon, Mifflin, Juniata, Fulton, Bedford and Somerset Counties. Referee: Jacob Snyder, Mateer Building, Altoona.

District No. 7—Erie, Warren, McKean, Elk, Forest, Venango, Mercer and Crawford Counties. Referee: L. E. Christley, Walker Building, 7th and Peach Streets, Erie.

District No. 8—Lawrence, Butler, Clarion, Jefferson, Indiana, Armstrong, Westmoreland, Fayette, Greene, Washington, Beaver, and Allegheny Counties. Referees: Thos. J. Dunn, Chas. H. Young, Hartje Building, Pittsburgh.

WORKMEN'S COMPENSATION BUREAU
OF THE
DEPARTMENT OF LABOR AND INDUSTRY
HARRISBURG, PENNSYLVANIA

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SAMUEL I. SPYKER, Associate Counsel.

RULES FOR ASCERTAINING WEEKLY WAGES.

AS ADOPTED BY THE WORKMEN'S COMPENSATION BOARD OF PENNSYLVANIA, FEBRUARY 25, 1916.

Wages is the amount in money value agreed upon in the contract of employment, written or oral, in force at the time of the accident, to be paid to the employe for his services.

In determining the money value of wages:

- (1) Do not add to the amount agreed upon in the contract:
 - (a) Gratuities to the employe, such as tips or presents.
 - (b) Wages paid for overtime, except in seasonal employments, or employments dependent on the weather.
 - (c) Board, lodging, rent, fuel or similar advantages from the employer, unless the money value of such advantages shall have been fixed as part of the wages by the parties at the time of the hiring.
- (2) Do not deduct from the amount agreed upon in the contract:
 - (a) The value of material, supplies, tools and other things necessary for the performance of the employe's contract with his employer, furnished or paid for by the employer, unless the contract shall specifically provide that the employer shall furnish them and that the employe must procure them from the employer and from no one else, and that the employer shall deduct the value thereof from the employe's gross earnings.

If the contract of employment be in writing, such provision must be specifically included therein. If the contract is oral the burden is upon the employer to show that the employe received express notice that the contract contained this provision.

Unless the value of materials, etc., is fixed in the contract of employment, the amount to be deducted under a contract providing for such deduction shall be the fair market value of such materials, etc.

- (b) Sums due the employer for rent or supplies other than those necessary for the employe's use in the performance of his labor, even though supplied by the employer under a contract which gives him the right to deduct such sums from the wages from time to time due the employe.

When the wages are fixed at the time of the accident by the week, the weekly wage so fixed shall be the basis for computing compensation.

When the wages are fixed on a monthly basis, ascertain the weekly wages by multiplying the monthly salary or wages by 12 and dividing by 52.

When the wages are fixed by the year, divide the yearly wage by 52.

To find "average Daily Wage" in Continuous Employments:

- (1) Take total earnings for six months preceding the accident, or so much thereof as employe worked for the same employer.
- (2) Subtract from said "Total Earnings" all earnings for overtime, if any.
- (3) Divide remainder thus obtained by number of "Working Days."
- (4) For "Average Weekly Wage" multiply above result by five and one-half.

NOTE: "Working days" shall be construed to mean total number of days in the period of employment covered, according to calendar, less:

- (a) Sundays.
- (b) Legal Holidays.
- (c) Half holiday for each week.
- (d) Days employe was prevented from working through no fault of his own.
- (5) When the employment is continuous and substantially constant and regular, the employe's earnings for the last full week preceding the accident may be taken as the average weekly earnings.

PERIOD OF COMPENSATION PAYMENTS.

When compensation is paid semi-monthly, the compensation payments shall be ascertained by dividing the weekly compensation by seven and multiplying by the number of calendar days in the period.

When wages are customarily paid semi-monthly, compensation may be paid every two weeks.

COMPENSATION FOR FRACTION OF A WEEK.

When at the termination of the disability compensation is payable for a fraction of a week, the employe shall receive for each day of such fraction of a week, including Sundays and holidays, one-sixth of his weekly compensation.

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